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Inclusive Land Governance in Mozambique: Good Law, Bad Politics?

Lídia Cabral and Simon Norfolk
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Inclusive Land Governance in Mozambique: Good Law, Bad Politics?

Lídia Cabral and Simon Norfolk

Summary

This paper analyses inclusive land governance in Mozambique. It focuses on the country's legal framework and the DUAT, the right to use and benefit from the land. The DUAT is a distinctive element of the Mozambican legislation that has land as the property of the state but recognises land use rights for occupants and users on the basis of a unitary system of tenure. The challenges of putting in practice what is thought to be one of Africa's most progressive legal frameworks are discussed. These are set against a context where despite land abundance there are concerns over land grabbing and dispossession of rural communities, which constitute over 70 per cent of the country's population. The law may be progressive but government politics are not, as an increasingly hegemonic elite controls Mozambique's political system and resources.

Keywords: Mozambique; DUAT; Land Law; local community; political economy of land.

Lídia Cabral is a Research Fellow at the Institute of Development Studies, UK.

Simon Norfolk is Director/Partner, Terra Firma Consulting, Mozambique.

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Acronyms

| | |
|---------|---|
| BAGC | Beira Agricultural Growth Corridor |
| CEPAGRI | Centre for the Promotion of Commercial Agriculture |
| CFJJ | Judicial and Legal Training Centre |
| CGRN | Natural Resource Management Committees |
| CoM | Council of Ministers |
| CPE | Provincial Business Committee |
| CPI | Investment Promotion Centre |
| CSO | Civil society organisation |
| CTV | Centro Terra Viva |
| DFID | Department for International Development |
| DINAIA | National Directorate of Environmental Impact Assessment |
| DINAPOT | Territorial Planning Directorate of MICOA |
| DINAPOT | National Directorate of Territorial Planning and Ordering |
| DINAT | National Directorate of Land |
| DNPDR | National Directorate for the Promotion of Rural Development |
| DNTF | National Directorate of Lands and Forests |
| DUAT | Right of land use and benefit |
| FAO | Food and Agriculture Organisation |
| FCT | Consultative Land Forum |
| GAZEDA | Accelerated Economic Development Zones Agency |
| iTC | Community Lands Initiative |
| LOLE | Law on Local State Organs |
| MASA | Ministry of Agriculture and Food Security |
| MCC | Millennium Challenge Corporation |
| MICOA | Ministry of Environment |
| MITADER | Ministry of Land, Environment and Rural Development |
| MOLA | Mozambique Land Action Programme |
| OMR | Observatório do Meio Rural |
| ORAM | Organização Rural de Ajuda Mútua |
| SDAE | District Services for Economic Activities |
| SDC | Swiss Agency for Development and Cooperation |
| SDIP | District Services for Infrastructure and Planning |
| SPFFB | Provincial Services of Wildlife and Forestry |
| SPGC | Provincial Services for Geography and Cadastre |
| UNAC | União Nacional de Camponeses |

Executive summary

This paper discusses inclusive land governance in Mozambique across three themes: (i) legal and governance frameworks; (ii) space and territory; and (iii) conflict. It focuses extensively on the country's legal framework and the DUAT, the right to use and benefit from the land. The DUAT is a distinctive element of the Mozambican legislation that has land as the property of the state but recognises land use rights for occupants and users on the basis of a unitary system of tenure. The challenges of putting in practice what is thought to be one of Africa's most progressive legal frameworks are analysed. These are set in a context where despite land abundance there are concerns over land grabbing and dispossession of rural communities, which constitute over 70 per cent of the country's population. The law may be progressive but government politics are not, as an increasingly hegemonic elite controls Mozambique's political system and resources.

Against such context, demand for sound land governance and advocacy for the rights of customary occupants and local communities has been growing and civil society organisations (CSOs) have become a prominent force. Besides their advocacy work, CSOs are key service providers, building local awareness about the law and strengthening capacity of local people and communities to engage with government and investors of land issues. Given the vulnerability of local communities, the work by CSOs of safeguarding legally established rights remains fundamental.

Yet, connecting the protection of rights with the promotion of rural development is a major challenge in the current context, where neither government nor the private sector have so far created opportunities for inclusive development. The negative track record of land concessions, including major flaws in compliance with legally required community consultations, has damaged confidence in government authorities and investors. This has seriously compromised the implementation of the so-called 'open border' model of community delimitation that was expected to allow communities the opportunity to become active actors in the deployment of their tenure rights. Notwithstanding the potential of community delimitation as an empowering tool for local communities, this paper argues that delimitation should be employed less as an act of ring fencing land and more as an instrument for strategically looking for ways of strengthening people's livelihoods. For that to happen, land tenure security would need to be addressed in conjunction with broader rural development efforts.

SDC's cooperation programme is well placed to play a leading role in combining land governance with rural development efforts, given its track record with broader governance and socio-economic development issues in Mozambique. SDC is also well placed to promote, alongside local partners such as OMR or CTV, a research agenda on land that fills current gaps. Areas that require in-depth analysis include: (i) experiences with community empowerment processes on land (such as delimitation) and implications for local governance and impact at the community level; (ii) the changing dynamics of land conflict over time; and (iii) the competing perspectives on the value of land and how land should be valued as part of an inclusive land governance agenda.

1 Introduction

1.1 Overview of country context and the land question

After independence from Portuguese colonial rule in 1975, Mozambique experienced nearly 20 years of civil war that opposed Frelimo, the Mozambique Liberation Front that had fought for independence, to Renamo, the Mozambican National Resistance, an anti-Frelimo and anti-communism guerrilla movement supported by Rhodesia and the apartheid regime in South Africa. During much of this time the Frelimo government supported by the Soviet Union adopted a socialist doctrine. One of the first acts entailed the nationalisation of land.

At the end of the civil war in 1992, the Frelimo government abandoned socialism and embraced a programme of macroeconomic stabilisation and liberalisation under the watch of the Bretton Woods institutions (Arndt 1999). Under this new regime, the country experienced massive inflows of development assistance to support post-war reconstruction and fill the gap left by a retreating state. A narrative of successful macroeconomic reform and poverty reduction was widely shared across the donor community and Mozambique entered the twenty-first century as an 'aid darling' (Hanlon 2010).

The Mozambican economy registered its most sustained growth period in post-colonial times between 2004 and 2014 (Macha and Ross 2014). Much of this resulted from so-called 'megaprojects' in the mining-energy sector, funded largely by foreign direct investment (Xiong 2014). High commodities prices in international markets attracted investors to Mozambique to explore its natural resource endowments – especially of coal, natural gas and heavy sands (Xiong 2014). Recent developments have revealed, however the 'shaky foundations' of Mozambique's economic growth (Jones 2016). The focus on primary extraction exposed the country to volatilities in international prices and foreign investment. In 2014, several foreign investments stopped without have reached the stage of operational activity (*ibid.*).

The future of Mozambique is further compromised by mismanagement of the economy and pervasive corruption by governing elites (Fauvet 2013). Despite having held five multi-party presidential elections since independence, only Frelimo has been in office. The increasingly hegemonic Frelimo-state not only has the monopoly of power but also of the economy and has nurtured an elite-based system that abuses power for private benefit (Phiri and Macheve Jr. 2015). Frelimo's hegemony has led to growing discontent inside Renamo and a return to armed conflict in 2013, aggravated by accusations of electoral fraud in the 2014 national elections (Beck 2013).

The opulence of urban elites linked to power contrasts with poverty that remains high and has increased in rural areas (Cunguara and Hanlon 2012; Hanlon 2010). Revenue from megaprojects has not trickled down but rather has contributed to increasing poverty (Virtanen and Ehrenpreis 2007). The agricultural sector that was expected to play a central role in addressing rural poverty has failed to develop in an inclusive and pro-poor fashion (Cunguara and Hanlon 2012). Instead, farmers' access to public services is limited, local markets remain poorly developed and land grabbing and large-scale investments in agriculture have proliferated (Hall and Paradza 2012).

Land is a strategic resource of the Mozambican economy. Mozambique is a land abundant (80 million hectares) country and only about 3–5 per cent of it is thought to be formally registered (Locke 2014). Agriculture constitutes a significant part of the economy, representing 24 per cent of GDP and 80 per cent of employment. Small-scale subsistence farmers are the dominant agricultural producers and occupy 5 million hectares. The Government of Mozambique (GoM) emphasises small-scale agriculture, as part of a poverty

reduction strategy, but in practice the majority of farmers remain severely resource-constrained with poor access to extension, inputs and markets. At the same time, growth, modernisation and an African Green Revolution have also been part of GoM's discourse and aid-sponsored programmes like ProSAVANA have nurtured a narrative of large-scale and export oriented modern farming, inspired by the Brazilian experience.

Table 1.1 Land in Mozambique in numbers

| Indicator | Area (km ²) | % of total | Source |
|--|-------------------------|------------|-------------------------------|
| Total territorial area of Mozambique | 799,380 | 100.0 | (MICOA 2014) |
| Protected land (e.g. natural parks) | 185,000 | 23.0 | (World Bank 2015) |
| Forest ecosystems | 406,000 | 50.8 | |
| Arable land | 360,000 | 45.0 | FAO |
| Land under cultivation | 58,420 | 7.3 | (MICOA 2014) |
| Land used for livestock production | 92,270 | 11.5 | (MICOA 2014) |
| Delimited community land | 21,218 | 2.7 | (DNTF/DNAT, data for 2003–16) |
| Land with DUAT titles for good faith occupants and local communities | Unknown | -- | |
| Land with DUAT titles attributed to investors | Unknown | -- | |

Land is also a central resource for the extractive industry and the development of the country's growth corridors (such as the Maputo, Beira and Nacala corridors) that rely on the expansion of transport networks, energy-mining infrastructures and farming of agricultural commodities for export markets. Natural resource endowments and GoM's growth corridors' strategy has attracted foreign investors – between 2004 and 2009 land concessions of more than 2.5 million hectares were granted and by 2009 GoM had received requests for 12 million hectares of land for biofuel production alone.

Land is therefore a major instrument of control over economic resources and is also an instrument of political and social control. A prominent Mozambican scholar noted that the nationalisation of land at Independence was the first major act of land grabbing in the post-colonial era. More recently, especially during the years of sustained economic growth and heavy FDI influx, the involvement of the ruling elite in unlawful land appropriation for speculation grabbed much attention and prompted widespread condemnation (Hall and Paradza 2012; UNAC and GRAIN 2015). And yet, Mozambique is thought to have Africa's most progressive legal framework for land that protects tenure rights of rural communities. This study asks how progressive and inclusive the practice of land governance has been. It finds several flaws in the implementation of the policy framework and questions the extent to which the country's political economy can deliver on the tenure rights enshrined in the legislation.

1.2 Analytical framework and methodology

This study on inclusive land governance in Mozambique is part of a larger study for the Swiss Agency for Development and Cooperation (SDC) that covers two additional countries: Brazil and Cambodia. The three country studies used a common analytical framework comprising research questions on the three inter-related themes that emerged from a previous survey conducted by SDC and a methodology workshop held at the Institute of Development Studies in February 2016. Table 1.2 summarises the guiding analytical framework.

Table 1.2 Analytical framework: themes and guiding questions

| Themes | Guiding questions |
|---------------------------------|---|
| Legal and governance frameworks | <p>(a) Question how formal and informal (neo-customary) processes interact in (<i>de facto</i>) pluri-legal systems, and how this interaction affects rights for different groups of people (including women, indigenous peoples, and youth, among others).</p> <p>(b) Investigate roles of the state (and associated elites) at central and local levels in how laws operate in practice, as well as probing who controls land governance institutions.</p> <p>(c) Enquire about the pressures to reform legal/governance frameworks, including both national processes and international hard and soft law (including investment treaties, UN Voluntary Guidelines).</p> |
| Space and territory | <p>(a) Evaluate experiences of community and individual land registration and titling processes, as well as spatial planning, zoning and territorial approaches. What have been the consequences? Have processes of formalisation of space and territory generated land tenure security or opened up areas for land grabbing?</p> <p>(b) Ask who benefits and who loses from these processes (focusing on a particular case). A key focus, depending on the setting, will be gender, ethnicity, and/or indigeneity dimensions.</p> <p>(c) Ask about responsibility and accountability for land in relation to different levels of government, examining whose authority for what territory. Explore wider governance questions, in the context of centralised/decentralised systems of government.</p> |
| Conflict | <p>(a) Explore conflicts arising over land, questioning the reason for conflict, identifying the protagonists, what have been the outcomes, and assessing who wins and who loses. This will be explored through cases in the focal study area.</p> <p>(b) Contrast conflicts over 'mega-projects' (for example, large-scale land deals), with more localised (but perhaps more extensive) local conflicts, involving land appropriation and accumulation.</p> <p>(c) Examine the histories of conflicts, and how land conflicts intersect with others (over mining and forms of resource extraction, among others), as well as the processes used to manage and resolve different types of conflicts. Draw lessons for land governance from these cases.</p> <p>(d) Examine the policy setting for conflicts, and ask about policy (in)coherence and embedding of conflicts in broader policy processes. For instance, what are the international, national, local dynamics? In different policy arenas what takes precedence (e.g. investment vs local land rights), and how is this brokered and mediated, with what impacts on the ground?</p> |

In the Mozambican context, we addressed these themes and questions at two levels: the national level that concerns legal frameworks, institutional players, policies and processes, complemented by a focus on land governance practices at the local level. We selected the province of Nampula, in Northern Mozambique, as the focus of our analysis of local practices. The main reason for this choice was the strategic location of the province within the Nacala corridor, an area extending along the transport corridor connecting the Mozambican hinterland to the seaport at Nacala. The Nacala corridor is a region of rapid economic expansion that has been stimulated by the development of the transport network that comprises the railway connecting Nacala to the coal mine explored by Vale in Tete province, one of the largest foreign investments in Mozambique. Unsurprisingly, there has been considerable pressure over land for agriculture, forestry, mining as well as transport infrastructures and the corridor has become a hot spot for some of the most high-profile cases of land conflict in Mozambique (UNAC and GRAIN 2015). Nampula is also one of SDC's target provinces.

Fieldwork for this study was conducted in the period between 9 and 20 May 2016. We started in Nampula province, where we visited the provincial capital, Nampula, and the districts of Ribaué and Malema. SDC staff and partners – iTC, CTV and OMR (further details on these actors later) – joined our research team and helped organising meetings and feeding the discussion with their insights and first-hand experience on land governance. We conducted semi-structured interviews with key informants at district and provincial levels and took part in focus group meetings with the communities of Cinquenta, in Ribaué, and Nietete, in Malema. We organised two additional focus group meetings in the city of Nampula: one with civil society organisations based in the province and another with representatives of local business associations and members of the Provincial Business Committee (CPE). The Nampula trip was complemented with fieldwork in the Mozambican capital, Maputo, where we conducted additional individual interviews and facilitated, with

SDC support, a half-day roundtable debate with invited experts on land governance. Overall, our research team interviewed and interacted with over 50 people, including practitioners, activists, members of local communities, government staff at the district, provincial and central levels, members of CSOs, members of representative bodies of the private sector, private operators, researchers and programme managers of donor agencies.

The remainder of this paper documents the findings from this work. Sections 2 to 4 take each of the three themes from the analytical framework in turn. We find that despite having an overall progressive land legislation – that protects local communities’ tenure rights, recognises customary practices and promotes participatory governance – several key aspects remain ambiguous and insufficiently regulated. The notion of ‘local community’ that is central to safeguarding tenure rights of rural people remains a critical issue that deserves attention from a broader governance and rural development perspective and beyond land rights. We also find that CSOs have played a key part in protecting and promoting the rights of rural people but it has been harder to connect this work with the promotion of development opportunities for rural communities. Private investment in agriculture and natural resource extraction have generally not benefited local communities but often generated conflict. The delimitation of community land can work not only as an instrument of tenure security but potentially also as a mechanism of conflict prevention and territorial planning. Yet, delimitation is no silver bullet and its practice needs to be thoroughly assessed. Section 5 concludes and provides recommendations for future research and for SDC’s land governance programme in Mozambique. These include promoting greater synergy between land and broader governance and economic development initiatives, exerting unremitting pressure on government with regards to transparency about land administration, and leading on a research agenda that takes a much needed in-depth and longitudinal perspective on local land occupancy and conflict beyond anecdotal and impressionistic portrayals of land grabbing.

2 Land governance and legal framework

This section gives an overview of the Mozambican land governance framework, focusing specifically on legislation, key actors and their roles. We discuss challenges implementing the land policy and legislation and highlight positive changes and opportunities to make land governance more inclusive and reinforce legally established tenure rights.

2.1 Selected features of the legal framework

The 1995 National Land Policy and the 1997 Land Law constitute the central pillars of the legal framework for land governance in Mozambique. The ensuing Rural Land Regulations and accompanying Technical Annexe, approved in 1998, provide further guidance on how to implement the law. Some provisions in these instruments have been subsequently revisited and amended. Table 2.1 provides an overview of the key legal instruments (Annexe 1 adds further details). Besides those pertaining to land directly, other pieces of legislation are also relevant as they affect land rights and tenure security, including legislation on forestry and wildlife, decentralisation, territorial planning, investments and resettlements.

Table 2.1 Key legal instruments for land governance in Mozambique

| Year | Title | Short description |
|------|---|---|
| 1997 | Law 19/97 (1 October) | Land Law: establishes key norms for land administration and tenure, including the concept of a unitary right (DUAT), rights acquired through good faith and customary occupation and the local community as a land-holding entity. |
| 1998 | Decree 66/98 (8 December) | Rural Land Law Regulations and Technical Annexe: specify procedures for community consultations, community land delimitations and land demarcation. |
| 1999 | Law 10/99 (12 July) | Forestry and wildlife law: Adopts the same definition of 'local community', providing exploitation rights for subsistence purposes and rights to be consulted regarding forest product extraction licensing. |
| 2003 | Decree 1/2003 (18 February) | Amendment to Land Law Regulations, specifically allowing local communities to register delimited land in the Real Property Register (<i>Registo Predial</i>). |
| | Law 8/2003 (27 March) | Legislation on local state administration, known as LOLE. It sets the district as the territorial planning base for economic development and the locality as the lowest level of state administration. |
| 2005 | Ministerial Diploma 93/2005 (4 May) | Regulates the distribution among local communities of the 20 per cent of tax revenue from forestry concessions and specifies the establishment of natural resource management committees at community level as a requirement for receipt of payments. |
| | Decree 11/2005 (10 June) | Regulations of Law 8/2003 on local state administration organisms, introducing statutory consultative councils at various levels. |
| | Law 8/2005 (23 December) | Law on establishment of agro-livestock associations with simpler procedures and requirements for establishing a legal association. |
| 2007 | Law 19/2007 (18 July) | Territorial Planning Law: provides specific planning tools and plan types recognised for (i) different levels (national, provincial, inter-provincial, district, inter-district) and (ii) different planning environments (rural and municipal). |
| | Decree 50/2007 (16 October) | Amends Article 35 of the Land Law Regulations to require local communities to request government authorisation for the titling of their acquired DUAT rights. |
| 2008 | Decree 70/2008 (30 December) | Investment guidelines that introduce further regulations on large scale land acquisitions (>10,000 ha). |
| | Decree 23/2008 (1 July) | Territorial Planning Regulations. |
| 2010 | Decree 43/2010 (10 October) | Introduces changes in the nº2 of Article 27 of Land Law Regulations (Decree 66/98) regarding the signing off of community consultations. |
| 2011 | Ministerial Diploma 158/2011 (15 June) | Details stages for community consultation process. |
| 2012 | Decree 31/2012 (8 August) | Regulations on resettlements resulting from economic activities, including the rights to fair compensation of resettled population. |
| | Decree 35/2012 (5 October) | Participation of community authorities in planning processes. |

2.1.1 The DUAT at the centre of the tenure system

Since Independence in 1975, land in Mozambique is the property of the state and the selling, mortgaging or encumbering of land is not constitutionally permitted. The 1997 Land Law therefore defines limited land use rights for occupants and users on the basis of a unitary system of tenure known as the DUAT (*Direito de Uso e Aproveitamento da Terra*), that is the right to use and benefit from the land.

The Law states that a DUAT can be established via three channels: the recognition of customary occupation, the recognition of 'good faith' occupancy for 10 years, and a land

rights concession, typically for natural resources extraction or the development of agricultural, forestry or fishing activities. More specifically:

- i. Local communities have a perpetual DUAT for land occupied under customary systems;
- ii. Individuals occupying land in 'good faith'¹ for at least 10 years have a perpetual DUAT for residential and family use; and
- iii. Individuals or companies (national or foreign) can apply for a DUAT for a particular piece of land for up to 50 years, with one renewal.

The Law's progressive nature is underscored by the recognition of customary practices and the fact that communities and individuals can offer proof of land rights through oral testimony, eliminating the obstacles of surveying, registration, and titling that often prevent the poor from securing their land rights. Hence, rural communities and individuals under circumstances (i) and (ii) above are not required to hold a formal DUAT title and yet they have a legally recognised and protected DUAT right.

DUATs are transferable through inheritance. They can also, under certain circumstances, be transferred *entre vivos*. There are restrictions to this form of transfer and the state must authorise the transaction before it can be validated.² In practice, however, an informal market for 'bare' DUATs is known to exist and DUATs are often requested for land speculation purposes (Hanlon 2011; Mandamule 2016). DUATs are also easily transferred between commercial entities by the acquisition of controlling shares in the corporate structure of DUAT holding entities. The Land Law also expressly permits a DUAT holder to enter into a contract of '*cessão de exploração*', which essentially constitutes a form of sub-lease over a particular piece of land. Again, this is subject to previous authorisation by the state and must be celebrated through a public deed.

2.1.2 The local community

The notion of local community is another key piece in the Mozambican land legislation, which defines it as:

A grouping of families and individuals, living in a circumscribed territorial area at the level of a locality or below, which aims to safeguard common interests through the protection of areas of residence, agricultural areas, whether cultivated or in fallow, forests, sites of cultural significance, grazing lands, water sources and areas for expansion.

(Land Law, Article 1, Number 1, authors' translation)

There are important elements in this definition:

- a community cannot be larger than a locality (*localidade*)³;
- it includes safeguarding common interests as an objective of protecting the defined areas;

¹ This is a patently subjective element in the law as the determination of good faith is subject to interpretation. Indeed, this is a matter of contention in land conflicts concerning the occupation by communities of land that was previously occupied by state farms, and previously colonial farms (as discussed further in Section 4).

² The restrictions are that: (i) there must be a transaction that involves some form of infrastructure or improvement to the land, since the sale of the land use right itself is prohibited; (ii) the seller must have complied fully with the development plan, on the basis of which the land use right was initially awarded, and be in possession of a definitive DUAT; (iii) all outstanding land taxes must be fully paid to the state before the transfer; and (iv) the sale of the infrastructure/improvement must be celebrated through a public deed, meaning that the infrastructure or improvement must have been previously registered in the Real Property Registry (*Registo Predial*).

³ The locality is the lowest local administration unit of the territory in Mozambique. It is a subdivision of the administrative post (*posto administrativo*) that is, in turn, the lowest unit that is spatially demarcated to date.

- these areas include all the resources that form an important part of extended farming and livelihood systems, including resources for the future.

The definition derives firstly from the earlier socialist-inspired idea of 'land belongs to the user'; thus use = occupation = a DUAT. Secondly, 'use' is also determined using a very different approach: a systems analysis of how resources in a given territory are used by local people, including areas 'not currently in active use' (long cycle fallow land, land reserved for future generations etc.). The local community is then a socio-economic representation of a system of land use and livelihoods strategies across a specific territory inhabited by groups of households and villages who share a common interest in operating and benefiting from the system (normally via kinship and the labour exchange required to maintain it). This analysis results in a DUAT acquired by the respective local community over the territory covered by the system. Establishing the boundaries of that system is the next step and such a process is called 'community delimitation'.

2.1.3 Local community delimitation

Local community delimitation is a key instrument for tenure security and for the formalisation of land use rights for local communities. It is a process whereby the community is able to prove the DUAT acquired by occupation and spatially identify the area it covers, by identifying the limits of its land use system, based on natural features and patterns of land occupancy within those boundaries. The latter includes, *inter alia*, areas of individual and common use and areas of religious or cultural significance. The resulting delimited community is a property rights holding entity and land management unit.

The Technical Annexe to the Land Law Regulations (Article 2, Number 3) defines delimitation as:

The identification of the boundaries of the areas occupied by local communities or by national individuals that in good faith are occupying the land for at least 10 years, including the registration of this information in the National Land Cadastre.
(authors' translation)

Several points should be noted about delimitation:

- it is community-driven;
- it is an empowering tool by strengthening knowledge about land use patterns within the community, promoting community organisation and preparing people to interact with external actors;
- it is 'a priority' in contexts defined in the Technical Annexe: where there are land conflicts, when an investment project is proposed, and when the community itself requests it; and
- it is a low cost, rapid process that certifies the rights of many individuals at the same time.

Seeing the limits around the local community as an 'open border' is critical (established as GoM policy in 1998). This open border allows the framework to function as it should, and achieve the vision of the National Land Policy of 'sustainable and equitable development' (República de Moçambique 1995). From this perspective, the aim of the Land Law 'was not to simply conserve community land [by vesting the DUAT in the 'local' community], but also to open the community to investment', either from outside (corporate or commercial interest in land and natural resources) or by the community and its members (World Bank 2010: v).

The process itself comprises a social appraisal and mapping of the land conducted by members of the community with the support of external facilitators (see Section 2.2.4) and

using participatory methods. The Technical Annexe makes explicit reference to participatory appraisal and participatory maps produced with the involvement of all interest groups within the local community. Neighbouring communities are also involved in the definition of external boundaries. As in the case of community consultations, three to nine selected community representatives sign delimitation documents (a sketch of the map and accompanying description resulting from the appraisal).

Delimitations are formalised through the issuance of a certificate (*certidão*) by the competent authorities (cadastral services at provincial level), containing the description of the boundaries. This information is registered in the National Land Cadastre, which includes the Cadastral Atlas.

Community delimitation can be done at the request of the community, where there are land conflicts and where there are requests for land (by the state or private investors) for the implantation of new economic activities or other development projects (Article 7 of Technical Annexe). The bearing of delimitation costs varies accordingly – supported by the state or private investors in the latter case.

2.1.4 Community consultation

Local communities have a role in the process of authorisation of land concessions for DUAT applicants for whom customary or ‘good faith’ occupancy circumstances do not apply. Hence, if an individual or company applies for land held under a customary community DUAT, the Land Law requires the applicant to consult with the community and secure the community’s agreement to cede its rights. The community can negotiate for terms and benefits in exchange for ceding its land rights.

Government authorities must confirm that community consultations occurred before approving the DUAT request (at least two, according to a 2011 ministerial diploma), which is subsequently formalised by government instances at the appropriate level (depending on the area of land requested). The DUAT applicant pays for consultations with the community.

Community consultations result in a written memo summarising information about requested land and its territorial confines. The memo is approved and signed off by local (district level) state administration authorities and by (two to nine) members of the community assigned to represent it. Yet, although the land law refers to mechanisms of community representation it does not specify what these mechanisms are, referring instead to future legal definition. Also, the law does not provide details on what specific information should be contained in the memo signed by communities.

A guide on community consultations produced by Centro Terra Viva (CTV), a Mozambican watchdog organisation (see Section 2.2.4), attempts to address some of these gaps (CTV 2014). It indicates what type of information should be given to the community at the various stages of the consultation process; it emphasises the need for representation of different social strata within the community; and it lists the elements that should be included in the final consultation memo (*acta de consulta*), including participants, issues discussed and commitments assumed by both parties (DUAT applicant and communities). Yet, notwithstanding their usefulness, the CTV guidelines are merely indicative, have no legal standing and the extent to which they are known and observed is questionable.

2.1.5 Land demarcation

Land demarcation is the process of identifying *in situ* the physical boundaries of the land for DUAT titling purposes. The Technical Annexe (Article 2, Number 5) defines demarcation as:

The transfer into the field of information included in the sketch [a schematic drawing of the land plot including georeference points] and its accompanying memo concerning the limits of a plot, as part of the titling process. (authors' translation)

Land demarcation is carried out by a certified land surveyor (*agrimensor ajuramentado*), in the presence of the DUAT holder or applicant and neighbours. It comprises: the technical validation of the boundaries of the plot, the implantation of concrete markers in the field, measurements and the writing up of technical details, including a map, details on area covered and georeferential points (Articles 20 and 21 of Technical Annexe).

Land demarcation is mandatory (within a year) following the emission of a (provisional) DUAT title (Land Law, Article 14). Local communities and good faith occupants are not required, however, to have a title or demarcate the land they are entitled to use by law. As for DUAT titleholders, land demarcation in the field rarely takes place because it is costly. The boundaries of titled DUATs therefore remain identified only by the original sketch maps done on the basis of topographic maps at 1:50,000 scale and this is a common source of conflict over boundaries.

2.1.6 Land development plans

All private investors have to provide a development plan (*plano de exploração*) for the land. This is evaluated and approved by the competent authorities (such as agriculture, forestry, tourism or mining, depending on the area of activity). If the requirements of the legal framework are fulfilled successfully, the applicant is eligible for provisional authorisation of the land right, valid for a maximum of five years for Mozambican citizens and two years for foreigners. Within the following calendar year, the land must then be properly surveyed and demarcated. If the approved development plans are completed in the relevant period of time, provisional authorisation for the land right can become a definitive authorisation and a DUAT title is issued. Sanctions in the Land Law for non-compliance with the development plan include the cancellation of the DUAT or a reduction in the area ceded. Sanctions for the non-payment of the rental, or for the non-demarcation of the boundaries, include DUAT cancellation.

Local communities and individual good faith occupants are not required to produce land use plans in order to secure their tenure rights. Yet, land use plans are sometimes prepared as a subsequent step to community delimitation work as a means to assist the community to plan how they wish to develop and/or protect land and natural resources in the future. Producer associations within communities, when these are constituted and request the demarcation and titling of DUATs for land for production purposes, are, as outsiders, required to produce a development plan.

2.1.7 Key provisions from other legal instruments

In addition to the Land Law and its Regulations, other legal instruments have a bearing over security of tenure, the rights of local communities and individual members and requirements for DUAT applicants. Examples briefly overviewed here included legislation and guidelines on: (i) large-scale land investments; (ii) expropriation, compulsory acquisitions and resettlement; and (iii) territorial planning.

The 2008 Investment Guidelines (Resolution 70/2008) introduce additional regulations for large-scale projects covering areas larger than 10,000 hectares, specifically adding safeguards to the evaluation process. They seek to tighten procedures and set out areas regarding such investments that require information from the applicant, including: nature of investment, land, environment, socio-economic aspects and details to be included in the development plan. In terms of the socio-economic information now required, this comprises:

demographic information related to existing population in the region, resettlement programme of affected populations, social infrastructure to be provided by the project, impact on food production, and involvement of local producers (e.g. provision of technical assistance, inputs and means of production).

The legal framework for expropriation, compulsory acquisitions and resettlement is scattered across a number of laws and instruments, including the Constitution, the Land Law, the Rural Land Law Regulations, the Territorial Planning Law and specific decrees⁴, making it complex and prone to multiple interpretations. The Territorial Planning Law (Law 19/2007) refers to expropriation in the furthering of 'public interest, necessity or utility' (Article 81). The article states that expropriation is permitted in cases where it is 'indispensable for the furtherance of collective interests, foreseen in [any of] the land use planning instruments.'⁵ The same law also refers to compensation and states that an expropriation of property, in cases of public interest, necessity or utility, gives rise to the payment of 'just compensation' (Article 83). This is defined as the 'real and actual value' of the expropriated assets, as well as damages arising and lost profits. It also stipulates that any compensation must be paid before taking possession of the expropriated assets.

Usually – and legally – there is no compensation paid for land itself, but rather for any built structures, trees or crops farmed. Compensation for cultivated land usually involves compensating the loss from standing crops⁶, although the Territorial Planning Law does introduce the concept of loss of future use, and how this should be included when compensation is contemplated. Land may be treated differently, depending on whether it is an unregistered right, a right registered within the cadastral register as a DUAT, or a real property right registered also in the Real Property Register. It is highly likely that the greater the degree of registration, the greater the chance of obtaining a fair and market-related compensation in the case of expropriation.

The legal framework for territorial planning comprises a Territorial Planning Policy (Resolution 18/2007), a Territorial Planning Law (Law 19/2007) and Regulations (Decree 23/2008). It provides specific planning tools for (i) different levels of administration (national, provincial, inter-provincial, district, inter-district) and (ii) different planning environments (rural and municipal). It is intended to add the spatial element to the economic development planning processes undertaken at these levels. The framework also foresees land use planning for special zones such as development corridors.

Land use planning at the community level is not legally underpinned in the existing territorial planning legislation. Yet, there are other tools that appear in other legislation that can be used in support of planning, including: (i) strategic environmental assessments, (ii) community land use planning as part of the community land delimitation, and (iii) strategic protected area planning. There is also a set of guidelines and methodologies that have been developed for specific purposes.⁷ Furthermore, the concept of participation in

⁴ For example, the Ministerial Diploma 181/2010, which deals with resettlement in the context of territorial planning and compensation for lost crops/land, and the recent Regulations for Resettlement Resulting from Economic Activities (Decree 31/2012).

⁵ Article 81 defines the terms 'public interest', 'public necessity' and 'public utility' as follows: (i) 'public interest' – when the final objective of the expropriation is to safeguard a common interest of the entire community; can be declared in cases involving the acquisition of areas for the establishment of economic or social infrastructure with a 'large positive social impact' and in cases where it is necessary to preserve soils, water courses or biodiversity, or to preserve public interest or military infrastructure; (ii) 'public necessity' – when the final objective is to assist the public administration in addressing emergency situations arising from natural disasters or similar; (iii) 'public utility' – when the final objective is to advance the interests of the public administration whilst acting as the guarantor of state security, the maintainer of public order and the satisfier of all societal needs.

⁶ Compensation values are calculated using a formula that even refers to the development stage of annual crops (defined in the Ministerial Diploma 181/2010 on compulsory land expropriation).

⁷ Such as the Guidelines for the Elaboration of District Land Use Plans, the Guide for Phased Municipal Physical Planning and the Manual of Basic Techniques for Physical Planning.

decision-making and planning is incorporated as a basic value into the Territorial Planning Law. The legislation itself does not provide, however, any additional practical guidance on participation.

2.2 Key stakeholders and their roles

2.2.1 Government actors

In Mozambique a distinction is made between land administration and land management functions. Land administration concerns the recognition and allocation of DUATs and the maintenance of information about rights to land, land use and the value of land. Land management, in turn, concerns guidance on uses of land as a resource from environmental, social and economic perspectives. The latter includes land use and urban planning and territorial planning. These two land governance functions are distributed across a range of government entities, forming a complex governance framework with overlapping remits and, often, contradictory decision-making that has resulted in a haphazard implementation of land policy and legislation (*cf.* Section 2.3).

The Ministry of Land, Environment and Rural Development (MITADER) is currently the government agency overseeing national land policy and the main land administration operator. It was created in 2015 under the new Cabinet structure established by President Nyusi. This removed land administration from the Ministry of Agriculture where it had been previously located. Within MITADER, the National Directorate of Land (DINAT) is one of the key departments for land policy and is responsible for the national cadastral system. It also performs land management functions by liaising with other sectors and stakeholders on land use issues.

Most land administration roles are carried out at provincial level by the Provincial Services for Cadastre and Geography (SPGC) and the Provincial Services of Wildlife and Forestry (SPFFB), until recently under the Provincial Directorate of Agriculture and now under a new Directorate of Land, Environment and Rural Development that is still taking shape. Cadastral maps and records of DUATs are maintained at this level. District cadastral services are also sometimes available at district level within the District Services for Economic Activities (SDAE) or the District Services for Infrastructure and Planning (SDIP).

Other key entities regarding land administration comprise the ministries and agencies overseeing the areas of mining and mineral resources, water resources, energy, public works, transports and communication, that oversee land concessions for public works (such as transport and communication networks and dams) and strategic economic activities (such as mining). Provincial governors and the Council of Ministers also have land administration responsibilities, specifically for the DUAT allocation process. According to the Land Law, following community consultations and communities' endorsement of requested concessions, the formal instances of approval for new DUAT concessions vary according to the size of requested land, as follows:

- Areas up to 1,000 hectares can be authorised by the Provincial Governor;
- Areas between 1000–10,000 hectares are authorised by MITADER; and
- Areas larger than 10,000 hectares are authorised by the Council of Ministers.

Land management functions are performed by the environmental and territorial planning departments that are now also in MITADER (and were until recently in a separate Ministry of Environment, MICOA), respectively the National Directorate of Environmental Impact Assessment (DINAIA) and the National Directorate of Territorial Planning and Ordering (DINAPOT). Other key land management entities, involved in land use planning for investments in economic activities, include the Ministry of the Economy and Finance, the

Centre for Investment Promotion (CPI), the Accelerated Economic Development Zones Agency (GAZEDA), the Ministry of Agriculture and Food Security (MASA), the Ministry of Natural Resources and Energy, and the Ministry of Infrastructures.

2.2.2 Traditional authorities and community representatives

Besides recognising customary occupancy, the Mozambican legislation also stipulates a role for traditional authorities in land governance. For example, Decree 35/2012 recognises the powers vested in local community authorities and the rules of collaboration between these and local state bodies.

Furthermore, as noted before, local communities are also key players in land governance processes. With regards to land administration, communities have a role in the no-objection to DUAT requests and in negotiating terms and conditions with DUAT applicants. They also have the central role in processes of community land delimitation. With regards to land management, they are entitled to funds to support local development initiatives, including the earmarked allocation of taxes from forestry and mining concessions. Decree 35/2012 also reiterates the right of participation by local communities in the preparation and approval of any economic projects and plans which may affect their rights. Establishing legitimate and accountable community representation is still however an issue, although the CGRNs constitute a starting point towards such definition.

2.2.3 The judiciary and paralegal actors

Decisions on DUAT concessions and land conflicts (namely over the fulfilment of agreements) are not checked by regular courts, but are subject to monitoring by the land administration authorities (an *ad hoc* process), who are often called upon to attempt to mediate or resolve conflicts. The judiciary system is only involved in extreme circumstances (e.g. cases reported by CTV).

Community courts are separate from the formal judiciary system and also handle local land disputes, as do the traditional authorities in many areas. As noted by Hilhorst and Porchet (2014), community courts are staffed by elected community members and apply a mix of formal law and customary law and other principles.

Paralegal agents, trained by the Mozambican Centre for Juridical and Judicial Training (CFJJ) are important players in informing communities about their rights and assisting them in cases of conflict, but have not become an embedded feature of the legal landscape in Mozambique in the same way as, for example, in South Africa.⁸

2.2.4 Watchdog organisations and non-governmental service providers

Non-governmental actors and watchdog organisations are significant players in Mozambican land governance. They perform an important part in disseminating information about land legislation and land rights, in identifying and investigating cases of land conflict, in advising communities and sometimes in mediating conflict, and, increasingly, in providing services to communities such as establishing community representatives and conducting land delimitations. They include national and international organisations. This is an area that has been growing significantly over recent years, mainly with support from international donors.

There are four clusters of organisations, grouped on the basis of the nature of provided services:

⁸ <https://namati.org/ourwork/paralegals/researching-community-paralegals/> (accessed 07 July 2016).

- Advocacy and advisory services (to communities): their main role is advocating for community rights and improving knowledge about these rights within the communities. Among these are Centro Terra Viva (CTV), Livaningo, Kulima, Justiça Ambiental, UNAC and ADECRU. There are also international NGOs working on land advocacy, such as ActionAid, CARE.
- Security of tenure services (to communities): they conduct preparatory community work (such as establishing community representatives) and land delimitations. The main player is CTC-COOP, better known by its previous name *Iniciativa de Terras Comunitárias* (Community Land Initiative) or iTC (we will henceforth refer to it as CTC/iTC). CTC/iTC works with partners at the local level, including Organização Rural de Ajuda Mútua (ORAM), Terra Nossa and many others (Box 2.1).
- Research (to the general public): they produce research on land and natural resource management and development issues. Observatório do Meio Rural (OMR) is gaining prominence in this field. CTV also conducts research on land although this work tends to be mostly for internal consumption and for improving its advocacy strategy.
- Legal/policy advice (to government and donors): consultancy companies, such as Lexterra, provide legal advice to government and have assisted government in drafting and systematising land legislation. Terra Firma provides policy advisory work to international donors in support of their land programmes.

A number of religious institutions have been involved in assisting communities with land issues over the years. The Catholic Church has been particularly involved in the centre of the country (especially in Sofala and Zambézia provinces), and has implemented civic education programmes in respect of land rights under the law, and assisted some communities that have come into conflict with the government and investors. At the same time, the Catholic Church has been quick to re-secure tenure over its colonial era land holdings, going as far as evicting some people who had come to occupy these lands, often for security reasons, since that time. Some Church institutions, such as the Adventist Church, have been historically suspicious of the delimitation process and have assisted communities in the demarcation and titling of their land as an alternative. The Muslim community was particularly active after the Limpopo floods in 2000, making some land to the south of Xai Xai city available for displaced people and assisting them to obtain formal tenure security over the redistributed plots.

Box 2.1 Community Land Cooperative: an aid-funded champion of community delimitations

The Community Land Cooperative (CTC/iTC) was established as a Mozambican cooperative in 2014, at the end of the previous government administration, as an interim step towards the creation of a Foundation that is still waiting to be approved by the current government. CTC/iTC was previously known as the Community Land Initiative (iTC), a programme funded by six donor agencies (from Denmark, Ireland, the Netherlands, Sweden, Switzerland and the United Kingdom) since 2006 and implemented by a contracted consortium comprising KPMG and the UK-based Natural Resources Institute (NRI). Its main task is to support the delimitation of community land and the demarcation of local producer associations' land through financial and technical assistance. It already operates in nine (of 11) provinces and is planning to extend coverage to a tenth province. CTC/iTC works with nearly 150 local service providers to support community delimitation work. Since 2006, the programme has helped delimit nearly 600 communities (from a total of about 10,000) and a total area of 5.4 million hectares (just under 7 per cent of the national territory). CTC/iTC has recently begun discussions with MITADER regarding the *Terra Segura* programme, which aims to regularise 5 million individual DUAT titles and 4,000 community DUATs in five years. The CTC/iTC position is that the community land must be delimited before proceeding to the formalisation of individual titles; it is unclear whether this will be observed by the government programme, and the criteria for selecting areas that will be the target of formalisation have not been broadly discussed.

Source: CTC/iTC (interview and email exchanges, May 2016).

2.2.5 International donors and their programmes

There is a broad range of donor-funded programmes focusing on strengthening land governance, with interventions directed to both demand and supply side constraints (see Annexe 2 for further details).

The funding of CTC/iTC is the largest donor initiative on the demand side. Several donors also have individual projects to support civil society organisations supplying advocacy and advisory services and conducting research. SDC, for example, provides assistance to CTV and OMR. On the supply side, GESTERRA supports MITADER and is funded by the Netherlands and Sweden. It replaced a previous capacity building programme implemented by the Millennium Challenge Corporation (MCC) with US funding (MCC 2013). GESTERRA focuses mainly on sustaining operations of the land information system (SIGIT) and piloting new approaches to delimitation and local land use planning processes. GESTERRA also supports the operation of the Consultative Land Forum (*Fórum de Consulta sobre Terra*, FCT), a multi-stakeholder space for land policy debate. There have also been large programmes focusing on the provision of paralegal services. The Paralegal and Judiciary Training Programme at CFJJ, was implemented by FAO with Dutch funding and ran for several years. Another past initiative worth mentioning is the Pro-Parcerias Project, sponsored by the Netherlands and FAO, which piloted models of community-investor partnerships (Boche, Tanner, Zimba and Anseeuw 2013; Locke 2014).

Large forthcoming land governance projects include:

- DFID's Mozambique Land Action Programme (MOLA), which expects to allocate nearly USD 11 million (GBP 7.5 million) to both demand-side (community delimitation through CTC/iTC) and supply-side land governance (mainly supporting district cadastral services). It is focused on the Beira Agricultural Growth Corridor (BAGC) area, where DFID has been operating, and has a strong focus on supporting decentralised land administration capacity using a bottom-up approach.
- The World Bank's 'Agriculture and Natural Resources Landscape Management Project', or 'the Landscape Project', which has a budget of USD 80 million and aims to promote rural value chains and their contribution to the well-being of rural communities, predicated on successful support for enhancing local land rights and engagement in natural resources management.

2.2.6 The FCT and multi-stakeholder debate

The Consultative Land Forum (FCT) was created in 2010 with the aim of establishing a platform for 'inclusive debate' on land issues, gathering around the table government institutions, civil society organisations, interest groups, communities and others involved in land administration and management (Decree 42/2010, Article 1, Number 1). Its creation resulted largely from donor pressure and aimed to fill a gap left by the extinction of the inter-ministerial Land Commission (*Comissão de Terras*) in 2003, which had previously been the channel for inter-sectoral coordination on land issues. FCT is presided over by the Minister overseeing land governance (currently MITADER) and its secretariat (*Grupo de Reflexão*) is hosted by DINAT. The Forum was set to convene twice a year, but this has recently changed to one annual meeting. The Forum is consultative and its proceedings are not legally binding. Yet, it has opened up a space for debate and helped to put some burning issues on the table, such as the illegal market for land and the possibility of introducing options for ceding of rights (FAO and Terra Firma 2012).

Besides FCT, there are other spaces for multi-stakeholder interaction on land issues. For example, CTC/iTC's governance structures include multi-stakeholder advisory committees at national and provincial levels. These include representatives from government,

international donors, civil society organisations, communities, the private sector and academia (ITC 2016).

2.3 Emerging issues

Although the Mozambican legal framework is considered broadly favourable from the perspective of tenure security of the poor and local communities there have been considerable implementation challenges at several levels. Many of these are related to the exercise of land administration and management functions and the underlying politics. But we also highlight issues concerning the framework itself, not least existing legislation and how it interacts with customary norms.

2.3.1 Dilemmas, gaps and ambiguities in the legal framework

The issue of *invisible rights* of local communities and community members remains one of the most significant challenges in the Mozambican legal framework. Although the fact that local communities and good faith occupants do not need a title or certificate to secure their rights is considered a progressive element of the law, it does create a problem of visibility of rights, which often leads to the erroneous (or disingenuous) interpretation that land is available when this is not the case. In a context where land administration functions are weakly performed (see below), power is centralised, and democratic institutions (such as the judiciary) do not operate effectively in protecting the most vulnerable, the invisibility of land rights is likely to undermine tenure security of local communities and its most vulnerable members who do not have access to the means to enforce their rights.

The problem of invisible rights is exacerbated by the fact that there is *asymmetric information* about the regulatory framework and, specifically, a poor understanding at the community level about their tenure rights and about the obligations that those requesting community land have *vis-à-vis* the affected communities. Although watchdog organisations have been doing valuable work on this matter, there are still significant gaps that result from the magnitude of the effort needed to reach the entire rural population and the need to sustain a continuous interaction with communities where effective communication is challenged by low levels of literacy and preparedness to engage with the abstract world of formal rights and procedures.

The *formalisation of rights*, through delimitation, titling and demarcation, is a means towards strengthening awareness about land and tenure security of local communities and good faith occupants. Women in particular are expected to benefit significantly from formalisation, in a context where customary norms are not gender-neutral (Terra Firma 2013). Besides contributing to women's empowerment, titling is also regarded as a way of preventing disputes and allowing access to credit (*ibid.*)⁹ The GoM recently launched the *Terra Segura* programme to formalise both local communities' and individual occupants' rights and generate these benefits. Yet there are concerns, particularly by CSOs, that titling may increase people's vulnerability and compromise communities' tenure rights if the programme is not carried out in a strategic manner. This may happen if titleholders are required to demarcate their land and produce land use plans, since it holds the risk that, in cases of failure to comply with the plans, the title could be cancelled or the land re-dimensioned, and hence the titleholder loses their previously secured rights (if the same rules that hold for new DUAT applicants are applied to good faith occupants and local communities with awarded titles). This also makes it possible that the land in question is lost from the broader community 'stock' of land; there are precedents for this, where community associations have demarcated areas within a community for production purposes, and then been unable to

⁹ The authors report that a number of farmers with land titles obtained with support from CLUSA in Lioma, Zambézia, managed to gain access to credit from a bank on that basis.

bring all the land into effective use. The subsequent re-dimensioning of the area was also accompanied by a re-allocation of the unused land to outside investors without any subsequent consultation, on the basis that the community had already agreed to cede the land.

CSOs are also concerned that if future legislation authorises the trading of DUATs this may mislead titleholders into disadvantageous trading deals. The formalisation and privatisation of land rights remains one of the most sensitive land issues in Mozambique – Box 2.2.

Gaps and ambiguities in the regulatory framework create additional obstacles to increasing the visibility of rights and the clarity of procedures to enforce those rights. There is uncertainty about the rules on demarcation and land use planning for local communities and good faith occupants who apply for titles (notwithstanding being legitimate DUAT holders), which as noted above can have non-trivial consequences on tenure security. There are also gaps with regards to the process of *community consultation* – who should be consulted, what information should be available to the communities and how should commitments be monitored and enforced? There are also considerable gaps concerning the land rights of displaced populations (Human Rights Watch 2012).

Box 2.2 Private property and markets for DUATs

The issue of private versus public property of land has long been a highly sensitive (and mostly avoided) topic in Mozambican land governance. Intimately connected to it there is the issue of tradability of DUATs. An informal market for land is already in operation in Mozambique, despite the constitutional provision that land is the property of the state and is not alienable. The informal trading of land is based on the legal entitlement to sell infrastructures built on the land, such as houses, sheds or simply walls (known as *benfeitorias*), which differently from land are considered to be private property. Although only the infrastructures are tradable, this virtually means the selling of land where they are implanted. Although this market for land and DUATs is widespread, its formalisation through regulation is vigorously resisted across the board. CSOs condemn privatisation of land, which they fear will lead to widespread dispossession and increasing vulnerability. Inside government, many also resist privatisation of land for either ideological reasons or because that would take away from government a major instrument of political control and patronage.

Some of these gaps are being pragmatically addressed by watchdog organisations. For example, CTV has produced guidelines on consultations to prepare communities for future DUAT requests. Yet, their guidelines have no legal validity and there are no mechanisms in place to ensure that the consultation process follows the suggested procedures (because of weak land administration).

A noteworthy case of ambiguity and long-standing controversy concerns the status of local community as a property rights holding entity. At the heart of the debate are differing interpretations of the nature of the land use rights awarded to local communities. The controversy ought not to exist, given the clarity provided by the legal framework – that recognises the local community as a private land use right holder. Yet, the trouble is with the legal representation of the local community and a joint rights holding entity. This has led to a misleading approach to community consultation, which fails to acknowledge the full rights of those being consulted (Box 2.3).

Box 2.3 Local community as property rights holding entity and the issue of representation

The clarity of the legal framework in respect to the nature of the land use right, and the manner in which it is held by a group, is incontrovertible. Firstly, the DUAT acquired in law by a 'local community' is a private land use right, which is at least of the same stature as the DUAT awarded by the state to an interested third party. The Land Law and the Regulations are very clear in respect to how a local community, as a group, holds that right. Having accorded a DUAT over relevant land areas to any 'local community' that fits this definition, Article 10 of the Law then makes it clear that these collectively-held DUATs should be managed according to principles of co-title, meaning that all members of the group should have an equal voice and must participate in decisions over their common assets. Article 12 of the Regulations then locates this within the legal regime of 'co-ownership' provided by the Civil Code, which defines co-ownership of property as when two or more people simultaneously hold property rights over the same item of either moveable or immovable property. In the context of a land use right held by a community, this means that every community member has equal rights. It follows that there must be a mechanism in place to ensure that every joint owner of the land use right is represented in the consultation process. Clearly, the mechanism for that representation must be an objective and unadulterated reflection of the interests of the group as joint-holders of a private land use right.

It is in the regulations for this mechanism for the representation of the joint rights holders that the difficulties have arisen. The Land Law itself does not specify how the competency is to be exercised. The most relevant clause is Article 30, which states that the 'mechanisms for representation of, and action by, local communities, with regard to the rights of land use and benefit, shall be established by law'. The Regulations also do not provide sufficiently developed safeguards on this matter.

The legislative approach to improving the legal framework in this regard has unfortunately made the fundamental mistake of confusing the consultation of 'citizens', as people who might be affected by developments within a particular jurisdiction, with the concept of consulting with 'rights holders', as persons who in law must give their authorisation to any changes to the constitution, nature or holding of those rights. Whilst the Land Law clearly identifies 'local communities' as groups that hold land use rights, the legal framework for consulting with these groups (community consultations) approaches them as if they were merely residents of an area, limited to having sufficient interests to justify their right to participate in decision-making processes.

This ambiguity has resulted in the adoption of ad hoc mechanisms of community consultation, taken as a process of consulting with citizens of a jurisdiction rather than joint rights holders. There are at least two approaches followed. GoM tends to make contact primarily with traditional authorities seen as the representatives of the jurisdiction and who then take decisions on DUAT requests (accepting and negotiating compensations) on behalf of the communities often without their knowledge or informed consent – this was a problem commonly reported by CSOs and communities, including the two communities interviewed for this study. CSOs, in turn, in doing their advocacy work and community delimitations draw on the figure of the Natural Resource Management Committees (CGRNs), enunciated in the forestry code. CSOs' work with communities typically comprises establishing these committees, which are then expected to take a lead in community delimitation, consultation and negotiation with investors. There are problems with either approach. The first approach is obviously problematic when traditional authorities override community and individual land rights and civil rights of equal access and opportunity. The second raises concerns about the legitimacy and the legality of representation within the community. CGRNs are statutory bodies that have no accountability mechanism (through either customary social norms or the

formal rules of an electoral democracy) towards the wider community and can potentially disrupt customary norms by introducing another layer of authority within the community. Also, they have no independent legal personality, meaning that they can only 'deal' legally with the state and not with third parties.

Finally, there is also the issue of coherence between formal law and customary law. Customary norms are sometimes unfavourable to women's tenure rights (especially in the South of Mozambique) and conflicting with civil law (gender equality rights). Customary norms vary across the country and are generally still poorly understood. Clashes are currently handled in an ad hoc manner and this causes uncertainty (as further discussed in Section 4).

2.3.2 Obstacles to effective land administration

Inadequate performance of land administration functions is one of the main constraints to compliance with the law and strengthening tenure security in Mozambique. Inadequate performance is related to the institutional weakness of land administration operators but also, and crucially, to the lack of incentives to tackle operational problems, address legal gaps and ambiguities and improve legal compliance.

The issue of *transparency* is one that encapsulates both operational difficulties and political reluctance towards improving land governance. The lack of transparency with regards to information about the status of land (e.g. an available record of DUATs titles requested and approved, their geographical location and development plans) is a long running problem that remains unresolved in spite of the volume of aid resources invested over the years in information systems. The effective operation of a centralised registry of land – *cadastro único* – accessible to the public remains an ideal, whose materialisation is challenged by a mix of operational weaknesses, corruption and dirigisme tendencies within government. Whilst at a local level these tendencies are much less evident, and there is a greater willingness to make information available (thereby avoiding unnecessary conflict), the capacity here is much weaker and the tools and facilities needed to make available the maps, registers and documents are absent.

Weak institutional capacity both in terms of human and financial resources to perform basic consultation, registration and monitoring functions is a commonly reported problem. These resource constraints often result in negligence in land administration activities. There are reported cases of community consultations done in haste with a handful of community members. There are also cases where consultations were done with a different community from that affected by the investment or with a traditional leader who decided on behalf of a community outside his/her jurisdiction (group interview, Nampula, 13 May 2016). And it is often the case that the Cadastral Atlas grossly misrepresents delimited communities, giving rise to local conflict over borders and situations of overlapping DUATs for the same land (as we will illustrate later). These are serious problems that often result from work done negligently or with scarce resources.

There are also more worrying situations of outright violation of the law, such as the approval of DUATs without any community consultation or the intentional misinformation of communities about the scale and impact of investments during the consultation process to avoid opposition, as reported by many of our respondents. Here, negligence gets mixed up with *corruption* and the *conflicting interests* of government authorities that perform land administration functions while pursuing the interests of DUAT applicants/investors often linked to government or the party.

Hence, the difficulty in accessing detailed information about the status of land in Mozambique results from the self-preserving drive to hide not only incompetence and

negligence but also corruption and private appropriation of land by the ruling elite. This is exacerbated by the *legacy of dirigisme and secrecy* that has long characterised the exercise of authority in Mozambique.

2.4 Positive developments and opportunities

2.4.1 Legislation: successes and opportunities for further improvement

Despite the magnitude of challenges, there are also examples of noteworthy achievements in Mozambique's land governance. With regards to legislation, the national Land Campaign (*Campanha Terra*) that took place in the late 1990s is broadly considered a success story, not only in disseminating information about land rights enshrined in the law but also in influencing the drafting of subsequent land regulations. There is scope for repeating the effort, particularly in the light of changes in the broader context, where pressure over land has increased significantly, and in the constantly expanding regulatory framework.

Another important achievement concerns provisions regarding community land delimitation and demarcation established by the Regulations in their Technical Annex. Although, as discussed further in the following section, this work is still far from perfect, it safeguards local communities' rights and stimulates the exercise of rights by empowering them to participate in territorial planning processes.

Finally, it is worth stressing that a discussion on the current land legislation and the need for revising some of its premises is starting to emerge. Although, for a variety of reasons, many continue to hail the 1997 Land Law as a major achievement and as virtually untouchable, others are starting to question it and call for its de-reification (João Carrilho at the experts' roundtable, 19 May 2016). The FCT has helped open up the debate and put some issues on the table. An example is the discussion of an imminent decree on the ceding of land use (*cessão de exploração*) as a compromise between the illicit trading of DUATs and the shielding of communities' tenure rights. The draft decree is scheduled for discussion at the next FCT later this year. If approved in its current form, it could provide both communities and investors with a new and important option – leasing out part of the land under their overall DUAT area, whilst retaining this DUAT in their name for potential future use. This could allow communities to make the most of their tenure rights where they do not have the capacity to use all the land under their DUAT.

2.4.2 Non-governmental service providers and watchdog organisations

This is an area where there have been frank improvements in terms of outreach to communities, quality of work and policy influence. There is a range of well-established CSOs actively working to protect tenure rights and supporting communities in understanding and exercising their rights. Although they are still dependent on international donor funding, they are gradually strengthening their capacity to diversify their funding sources. For example, iTC was established as a donor financing mechanism and has recently become a Mozambican institution, with independent legal standing. Established as a cooperative in 2015, it is awaiting approval of its status as a foundation, which will open access to alternative sources of funding.

CSOs have also become major players in land governance, participating in key fora and processes, influencing the policy debate and shaping the legal framework. The successful opposition to subjecting community delimitation processes to the same procedures that apply to DUAT approvals for investors is a case in point (Box 2.4). The recent shift in the new administration towards identifying and formalising existing DUAT rights (through *Terra Segura*) is also regarded as the outcome of constant commitment of CSOs towards keeping the delimitation process alive (with strong donor backing). Pressure from CSOs on

environmental due diligence and community consultations has also put pressure on government for the introduction of more rigorous checks on DUAT requests by investors, such as in the high-profile case of Anadarko's gas operation in Palma, Cabo Delgado province, that was subject to persistent scrutiny by CTV, in an effort to prevent the same damages suffered by communities resettled by mining Vale in Moatize, Tete province (International Movement of People Affected by Vale 2012; Jone 2014).

Box 2.4 Debating the law: the case of Article 35 on local community delimitation

A notable success from civil society action was the rolling back of a restrictive and erroneous interpretation of the Council of Ministers' amendment to Article 35 of the Land Law Regulations, through Decree 50/2007. This intended to subject land delimitation processes to the same authorisation procedures as the titling of investor DUATs, which would have made delimitation expensive, risky and not worthwhile for most communities. This was the interpretation given to the amendment by the National Directorate of Land and Forestry (DNTF) that preceded DINAT, through National Circular 009/DNTF/2007, which also included additional obligations requiring local communities to submit development plans. Activists from a number of CSOs worked with a small group of 'champions' within the DNTF to ensure that the issue was central to the agenda of a National Community Land Conference held in Nampula in March 2010. At this meeting, and subsequently at an internal Technical Meeting of the DNTF in July that year, the participants clarified that Article 35 applied only to demarcation and titling, and not to the process of delimitation, and that Circular 009/DNTF/2007 therefore required a complete revision. This was completed soon after, through National Circular 1/2010 of 1 October. An important part of the clarification provided by this new circular was that the delimitation of community land is no longer subject to the authorisation of the Provincial Governor (nor the Minister or Council of Ministers) – they are now merely to be signed off, by the relevant Chief of the Provincial Services of Geography and Cadastre, as being complete and correctly conducted. Notably, preceding the publication of this circular, civil society organisations were joined by many public servants at district and provincial level, who took the stance that the delimitations should be conducted as mandated by law. At the Technical Meeting, the national staff of the DNTF attempted to defend the politically-expedient interpretation of the amendment, which would have subjected community land delimitations to increased political control. The provincial staff successfully defended the more correct interpretation in the face of considerable hierarchical pressure. The new approach ended a period of tension and misunderstanding between government and civil society and heralded a period of greater cooperation around land issues.

2.4.3 Some advances in land administration and management

Although progress has been rather timid with regards to land administration and management, there are some trends worth highlighting. A noteworthy development concerns the establishment and consolidation of FCT, even if driven by donor pressure. FCT reintroduced the multi-sectoral perspective that had guided the extinct Land Commission but went further by opening up the debate to local administration authorities and non-governmental stakeholders and interest groups, such as private sector representatives, CSOs and academia. Although participation from private sector actors and CSOs was very timid in FCT meetings held until 2012 – CTV was the only regular and noticeable presence (FAO and Terra Firma 2012) – the last meeting (held in 2015) is pointed out as an exemplar in terms of the increase in the breadth of participants and the quality of debate, where mixed panels openly addressed some outstanding themes such as the '*cessão de exploração*' mechanism and the adoption of 'social preparation' of communities as a formal step in the

delimitation process.¹⁰ This was the first FCT meeting presided over by MITADER and its new minister, who is known for being more accessible and open to dialogue than his predecessor. It is too early to tell whether this last FCT inaugurated a new trend to be consolidated in future meetings or was just a one-off episode resulting from the enthusiasm and energy of a new minister freshly starting his job.

The creation of a land ministry (MITADER) that combines land administration with environmental due diligence and territorial planning can also be regarded as a step forward in increasing policy coherence. There are however significant operational challenges to make this mammoth ministry work effectively.

Another area of potential improvement concerns the national cadastre, where a new stage of Dutch-funded technical assistance is starting, using the FIG-approved concept of 'fit-for-purpose' cadastral systems. It is questionable, however, whether the official acceptance of this approach is driven by a genuine desire to improve transparency and the quality of information available, or is just as a pretext for tapping into additional donor resources that have for long funded institutional capacity in land administration.

3 Space and territory

We now focus on the theme of space and territory. Within this we consider the issues of land management, territorial planning and the exercise of land use rights, which concern patterns of land occupation and use and corresponding planning instruments.

Requests for land use rights to carry out economic activities, concerning mining, forestry and agriculture in particular, have increased greatly in Mozambique over the last decade. This has created opportunities for local development but has also posed some real threats to tenure security, especially because of violations or imperfect observation of the legal framework and because communities are ill-prepared to deal with investors and negotiate fair deals. Against this context, community delimitations constitute a valuable mechanism to empower communities and prevent conflict over land. Land use planning is another important tool, but there is still scope for improvement. Yet, notwithstanding efforts to empower and engage communities in planning processes, without support in accessing means of production and fair markets for products, tenure security is insufficient to improve the livelihoods of local communities and allow them to benefit from the full potential of their land. There have been few partnerships between investors and communities and no obvious success stories or templates have yet emerged from these experiences.

3.1 Pressure on land, territorial politics and community empowerment

During the first decade of this century Mozambique became a popular destination for international investors seeking to explore the country's natural resource wealth and take advantage of rising international commodity and food prices, in a context of domestic political stability and relatively sound macroeconomic management. Requests for land to develop activities in mining, gas, forestry and biofuels increased significantly, particularly towards the end of the decade. Between 2004 and 2009, the GoM approved land concessions for more than 2.5 million hectares (ha)¹¹ (Terra Firma 2013), with more than 1 million ha taken by foreign investors, 73 per cent for forests and 13 per cent for biofuels and

¹⁰ Where 'social preparation' is understood as a process of capacity building with communities comprising dissemination of information about land rights and procedures as well as assistance in setting up representation structures, such as CGRNs.

¹¹ One hectare (ha) corresponds to 10,000 square meters (a standard football field has 0.6 to 0.8 hectares).

sugar (Hanlon 2011). A surge in DUAT requests for areas larger than 10,000ha was also recorded around that period (*ibid.*). Between 2008 and 2012, approved land concessions had increased to 6.7 million ha, with an average DUAT of 546ha (Table 3.1).

Table 3.1 DUAT requests and approvals in 2008–12

| Year | (1) Number of approvals | (2) Areas approved (ha) | (3) Number of requests | (4) Areas requested (ha) | (5) = (2)/(1) | (6) = (1)/(3) | (7) = (4)/(3) |
|--------------|-------------------------|-------------------------|------------------------|--------------------------|---------------|---------------|---------------|
| 2008 | 3,080 | 4,137,717 | 3,857 | 4,618,231 | 1,343 | 80% | 1,197 |
| 2009 | 2,528 | 1,208,749 | 2,895 | 1,636,026 | 478 | 87% | 565 |
| 2010 | 2,175 | 279,781 | 2,123 | 653,821 | 128 | 102% | 307 |
| 2011 | 2,468 | 387,610 | 3,338 | 2,210,693 | 157 | 74% | 662 |
| 2012 | 1,947 | 648,040 | 5,740 | 1,624,254 | 332 | 34% | 282 |
| Total | 12,198 | 6,661,897 | 17,953 | 10,743,026 | 546 | 68% | 598 |

Source: adapted from Di Matteo and Schoneveld (2016), who used data from DNTF obtained in 2013.

Yet, failure by some large investors to make productive use of land (particularly in the biofuels sector), as well as several cases of mishandling of community resettlements, generated widespread condemnation about land grabbing and speculation (Hanlon 2011; Mandamule 2016; Norfolk and Hanlon 2012; UNAC and GRAIN 2015). Between 2009 and 2011, the GoM eventually put in place a moratorium on DUAT allocations for areas larger than 1,000ha (Di Matteo and Schoneveld 2016). Some large DUAT concessions were cancelled¹², while others were resized into smaller areas. Furthermore, the investment guidelines approved in 2008 for large-scale projects (larger than 10,000 ha) also introduced a slightly more rigorous selection process (Resolution 70/2008). Indeed, the average size of approved DUATs has dropped significantly since 2010 (Table 3.1, column 5), as did the rate of approval (column 6). The average size of requested land seems to have equally declined (column 7).

Many of these large-scale concessions were located in strategic locations, such as the so-called ‘growth corridors’ of Beira and Nacala. Transport infrastructures (roads and railways), linking strategic sites for investment in the hinterland with airports and seaports, connecting Mozambique to international markets, had become the focus of public investment sponsored by donor grants and concessional loans, including from Brazil, Japan and the UK.¹³ Mining and forestry concessions, agricultural plantations and contract-farming schemes started to emerge along these corridors, giving rise to some high-profile conflicts over land, typically between foreign investors and local communities – such as Vale in Tete, Anadarko in Cabo Delgado, Kenmare in Nampula and Agromoz and Quifel in Zambézia (Section 4 will discuss the issue of conflict in more detail).

These episodes of significant pressure over land for economic development and speculation unfolded against a context of partial decentralisation and an unfinished or unclear strategy for territorial planning and rural development, which means that local government structures and communities were unprepared to handle the situations they were confronting.

¹² Hoyo Hoyo (soybean plantation in Zambézia) and Procana (biofuels plantation in Maputo province) are two well documented cases (Norfolk and Hanlon 2012).

¹³ The development of the Beira corridor has received support from UK aid, whereas the Nacala corridor is the target area of an agricultural-focused development programme sponsored by Brazil and Japan and the destination of several infrastructure development and natural resource extraction projects by a range of private investors.

GoM had taken up the decentralisation agenda in the early 2000s largely as a result of political pressure (after the near defeat by Frelimo in the 1999 elections). Although GoM successfully resisted pressure for further expanding municipalities, in 2003 it passed the law on local state administration organisms (Law 8/2003 or LOLE), in time for the 2004 elections. LOLE revamped the role of the district in economic and territorial planning, setting it as the basis for local economic and social development. Its regulations, in turn, acknowledged the role of communities and community authorities (at least those recognised by government) as stakeholders in local development. Yet, mechanisms for articulation between local administration authorities and traditional leaders and community representatives remained unclear and the devolution of powers to communities was never fully embraced by government, with government-endorsed community authorities being used instead to extend and consolidate Frelimo's hegemony in the countryside (Forquilha 2009).

Notwithstanding the political obstacles to furthering decentralisation and strengthening community participation, exacerbated by the armed conflict that has affected central provinces since 2013, some instruments created for local territorial administration offer opportunities for community empowerment and the exercise of their land rights. Local communities are entitled to participate in this local state administration-led planning process, although mechanisms for legitimate representation and effective participation are yet to be developed. It is also unclear how these territorial planning processes are connected with other ongoing government initiatives concerning spatial development – such as agricultural zoning exercises and the announced National Integrated Programme for Sustainable Rural Development, known as *Programa Estrela*, that will implement GoM's rural development strategy through the promotion of agricultural and forestry value chains in rural areas.

Against this context, the work with communities carried out by actors like CTC/iTC, CTV or ORAM (informing people about their rights, creating organisation structures at community level and conducting community land delimitation) has played an important part in community empowerment. There are challenges, however, in developing this work further – by establishing effective partnerships for development, with either the state or private investors. The remainder of this section discusses challenges and opportunities in actually deploying land use rights by taking advantage of land as a livelihood asset in a fair and sustainable manner.

3.2 Challenges to an inclusive exercise of land use rights

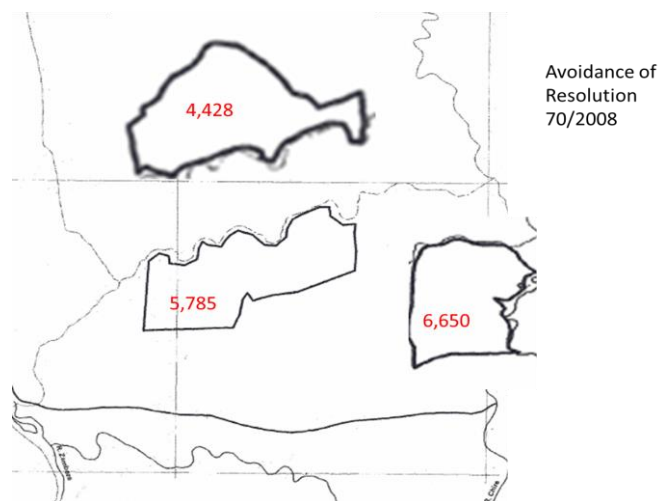
3.2.1 Changing tactics in land concessions and less visible DUAT requests?

Several factors may explain the reduction in the average size of approved DUATs since around 2009/10 (compared to the mid-2000s), including the advocacy work of watchdogs and more stringent checks on investors. It may also reflect the reduced availability of large plots of land – Di Matteo and Schoneveld (2016) make this point for Zambézia and Nampula provinces – as well as a decline in demand for land in a context of falling commodity prices and hence reduced incentives for investment. There is also a change in tactics in land concessions by the GoM that is not captured by the data.

The GoM has been reportedly discouraging large land requests on the basis of previous failed experience. Yet, the same investor may request a number of smaller DUATs across multiple sites which may add up to rather extensive areas – an example of this is illustrated in Figure 3.1. There are concerns that this may be done to avoid Resolution 70/2008 and with the aim of expanding later and connecting the sites. One SPGC officer interviewed in Nampula noted that they are advising investors to request areas under 1,000ha whose approval lies under provincial jurisdiction. This is done to simplify the approval process and avoid future cancellation or re-sizing of the DUAT in the case of failure by the investor to

comply with the land use plan. This advice is also likely to be motivated by the wish to retain within provincial services the jurisdiction over provincial land. There are also cases where there has clearly been an attempt to avoid the implications of Decree 70/2008, as shown by the map in Figure 3.1.

Figure 3.1 Map showing three virtually contiguous areas requested by a single investor but divided in three parcels of less than 10,000ha (Mutarara district, Tete province)



Source: produced by Terra Firma based on data published in *Boletim da República* (República de Moçambique 2011).

While we had no means of verifying with the available data whether smaller multiple DUATs held by single investors are an emerging pattern in land concessions in Mozambique,¹⁴ we noted that smaller DUAT requests are less visible to communities and the scrutiny by watchdog organisations, which tend to focus their attention on high profile large-scale land cases that they hear about, since they do not have systematic monitoring systems in place to detect new cases.¹⁵ Box 3.1 provides an illustration.

3.2.2 The failings of community delimitation: coverage, data and quality of process

Despite the advances in the regulatory framework with regards to community land delimitation, the scale and geographical coverage of delimited communities remains limited.

¹⁴ Though it is worth mentioning that Di Matteo and Schoneveld (2016) illustrate, in their analysis of DUATs in Nampula and Zambézia, that Lúrio Green Resources, Portucel and Tectona Forests have all obtained multiple DUATs for forestry concessions (15, 22 and 26, respectively).

¹⁵ For example, checking of SPGC records monthly, checking public notices (*editais*).

Box 3.1 Discreet handling of DUATs? A case in Ribaué

In Nampula province, we interviewed an agricultural investor who had requested just under 10,000ha of land for maize and soybean production in the district of Ribaué, not far from the main road and the Nacala railway. This is initially intended to supply domestic prices, raise productivity and bring down prices with a view of expanding later and supplying international markets. The land is distributed across three different non-contiguous areas in neighbouring communities. The investor displayed confidence that the area could be augmented in the future to over 10,000 hectares without the need for additional paper work or consultation with the communities, who in his view had already 'approved' the investment. SPGC had confirmed to him that land was available in the area. CSOs monitoring land concessions in the province and working on community delimitation had no knowledge about this particular investment and the presumably conducted community consultations and acquired rights.

The latest data from DNTF/DINAT indicates that, by 2014, only 915 communities, in a universe of 8,000–10,000 communities,¹⁶ had been delimited, with considerable variation across provinces (Table 3.2). It is worth pointing out, however, that available data sets on delimitation are not easily comparable and it is hard to get exact figures for delimitation. In 2009, the World Bank compiled data indicating that just under 10 million ha of land had been delimited and this is considerably below the figure of 13.6 million ha reported by GoM. Also, CTC/iTC latest records indicate that, between 2006 and 2015, CTC/iTC funding sponsored the delimitation of approximately 523 communities corresponding to 5.4 million ha (Table 3.3).¹⁷ Given that CTC/iTC is by far the main sponsor of community delimitation, it is not clear where the remaining 15.8 million hectares (of the total of 21.2 million reported by government) come from.

Table 3.2 Community delimitation up until 2014

Area covered, number of communities and average size by province

| Province | Area (ha) | # | Average size (ha) |
|--------------|-------------------|------------|-------------------|
| Niassa | 2,831,849 | 154 | 18,389 |
| Cabo Delgado | 623,382 | 66 | 9,445 |
| Nampula | 1,147,755 | 145 | 7,916 |
| Zambézia | 4,776,351 | 223 | 21,419 |
| Tete | 4,030,219 | 53 | 76,042 |
| Sofala | 4,085,963 | 62 | 65,903 |
| Manica | 1,366,013 | 52 | 26,269 |
| Inhambane | 679,292 | 24 | 28,304 |
| Gaza | 1,466,069 | 106 | 13,831 |
| Maputo | 211,597 | 30 | 7,053 |
| Total | 21,218,489 | 915 | 23,190 |

Source: DNTF/DINAT Annual Reports. (# = number of communities)

¹⁶ Given the flexible notion of community used in Mozambique the actual number of communities cannot be accurately established.

¹⁷ CTC/iTC expects to reach just over 1,000 communities by the end of 2016 (interview with CTC/iTC Director, May 2016).

Besides the trouble with the data, a more serious shortcoming on community delimitation concerns the quality of the process, which has been compromised by a focus on reaching annual targets of delimited communities, while actually leaving weak institutional capacity within the community. There have been few improvements to the delimitation methodology since 2000, and no adoption of new technologies to make the work more effective, such as the use of satellite imagery or improved data collection technologies. There has also been scant attention to the issue of community representation, which continues to be based on formulaic approaches. Other reported weaknesses include poor monitoring of the delimitation work, record keeping (including maps of delimited areas, which are often not available), or assessments of impact of delimitation work (Terra Firma 2013).

There are also serious problems in registering the boundaries of delimited communities in the Cadastral Atlas by SPGCs, whose involvement has been confined to a formal signing off at the end of the process and emission of the delimitation certificate. The common procedure by SPGCs is to take a few coordinates in the field and then join them with straight lines, resulting in a map that bears no relation to the boundaries identified by the communities, which often follow river courses and other natural features of the territory, established roads, etc. Figure 3.2 illustrates this for one community in Malema District, Nampula, showing the border as mapped by the SPGC using coordinates, and the border as identified by the community through participatory mapping processes. Corrections can be achieved relatively simply by reference to: (i) participatory maps produced by the communities; (ii) topographic maps; and (iii) the description of boundaries in diagnostic reports produced during delimitation.

Table 3.3 Community delimitation by CTC/iTC in 2006–15
Area covered, number of communities and size, by province

| Province | Area (ha) | # | # >50,000 ha | # 20,000–50,000 ha | # 10,000–20,000 ha | # 5,000–10,000 ha | # <5,000 ha |
|--------------|------------------|------------|--------------|--------------------|--------------------|-------------------|-------------|
| Niassa | 2,456,105 | 123 | 8 | 27 | 28 | 24 | 36 |
| Cabo Delgado | 461,833 | 50 | 0 | 2 | 16 | 17 | 16 |
| Nampula | 587,066 | 111 | 1 | 5 | 5 | 16 | 84 |
| Zambézia | 737,315 | 122 | 0 | 7 | 13 | 31 | 71 |
| Tete | 104,620 | 34 | 0 | 0 | 1 | 6 | 27 |
| Sofala | 227,560 | 12 | 0 | 4 | 6 | 2 | 0 |
| Manica | 788,023 | 53 | 4 | 8 | 9 | 11 | 21 |
| Gaza | 69,852 | 18 | 0 | 0 | 2 | 3 | 13 |
| Total | 5,432,376 | 523 | 13 | 53 | 80 | 110 | 268 |

Source: CTC/iTC, information supplied in May 2016. (# = number of communities)

process remains faint. One immediate concern regards the *Terra Segura* programme and whether titling will prioritise delimited communities, where people should be, in principle, better prepared to deal with the challenges associated with the formalisation of rights. It is unclear whether CTC/iTC's motto 'delimit first' has had much resonance inside government. The seemingly uncommitted attitude by the GoM towards delimitation may result from an understanding that delimitation is about shielding communities from external investment¹⁹ – a view that may have been nurtured by hostile positions towards investors of some watchdogs.

3.2.3 Obstacles to inclusive business partnerships

The experience with community delimitation in Mozambique reveals the failings of putting into practice the original vision behind the 'open border' model, that is, of using delimitation as a mechanism to equip communities with negotiation tools for exploring land-based investment opportunities, while safeguarding their tenure rights. Instead, the GoM has largely regarded delimitation as a mechanism of ring-fencing land and therefore an obstacle to private investment. The way delimitation has been conducted may have favoured this view – for example, the failure to strategically prioritise delimitation in areas of high value land (such as areas with high agricultural potential) – sometimes because of opposition by local authorities – and the failure to guide delimitations with a view to identifying investment opportunities (World Bank 2010).

There are a number of challenges to the establishment of business partnerships and investment models that include individuals or collective land holding people from rural communities. One major difficulty is that there is no specific legislation that regulates such partnerships. Despite a sustained focus on this subject over the last few years, through the Pro-Parcerias Project²⁰ and the agenda of the FCT, little headway appears to have been made.

There are some partnership arrangements in the eco-tourism and forestry sectors, either loosely based on the Forestry and Wildlife legislation and the payment to communities of 20 per cent of annual taxes due by the investor to the state, or underpinned by a specific decree permitting the sharing of benefits in a defined area.²¹ The framework for partnerships in the agricultural sector is undeveloped; some private sector arrangements, mainly out-grower schemes, have been established, especially in the tobacco, cotton and sugar sectors albeit with limited success (Smart and Hanlon 2014).

There are also challenges that relate to the strategic choices inherent in partnership formation. The first problem in this regard relates to the identification of the 'community group'. Current policy discussions are debating whether a framework and related tools should encourage the formation of partnerships that involve all of the community members within a defined geographic area (the 'local community'), or merely a subset of those members of the community who are interested in actively participating and, crucially, sharing the risks of doing so. Actors within the Pro-Parcerias project expressed the view that a partnership arrangement would have a better chance of success if participation is defined

¹⁹ Terra Firma (2013) notes that zoning exercises conducted by the GoM identify delimited communities as unavailable areas for investment, and this reflects an interpretation of community delimitation as exercises for conserving land within communities and blocking external investment.

²⁰ Pro-Parcerias was conceived specifically with the view of establishing active partnerships between communities with extensive but under-used land rights and investors needing large areas of land for commercial projects (Boche *et al.* 2013).

²¹ For example, Tchumo Tchato was one of the first community-based natural resource management (CBNRM) programmes established in Mozambique. It started in 1994 in a remote area of about 200 000 ha on the right-hand side of the Zambeze River in Tete Province, close to the borders of Zimbabwe and Zambia. The central government played a role by establishing a mechanism for direct tax revenue sharing between the parties. An Interministerial Diploma was signed in May 1995, allowing tax revenues to be directly collected and shared in the following proportions: 33 per cent for local communities, 32 per cent for local governments, and the remaining 35 per cent for the national tax system.

more narrowly, through a group that has actively 'opted in' to the arrangement.²² They based their argument on the difficulties in achieving a full agreement with all the members of a local community and the transaction costs implicit in sustaining the partnership.

Furthermore, partnerships are the result of direct negotiation between two parties that occur in the context of a significant imbalance of knowledge and power. Even when communities have been exposed to capacity building, their organisational structures remain weak and, as discussed, there are no legal mechanisms for representing the community as a joint rights holder entity. The very low capacity to negotiate, broker, formalise and monitor inclusive partnership arrangements will lead to an inevitable process of elite capture and inability of communities to receive value for the land they make available. This has been demonstrated in a number of areas, particularly along the high value coastal strip. This may lead to growing inequalities, resentment and conflict, as well as reduced levels of legitimacy for investment projects, negatively affecting their operations and further development.

3.2.4 The value and taxation of land

A specific problem related to the imbalance of knowledge and power concerns the value of land and natural resources. The difficulty in producing reliable valuation is an important challenge to getting a fair deal in community-investor partnerships or, indeed, in negotiating just compensation for resettled populations. Communities are rarely well informed about the real value of their land and natural resources and the economic opportunities they offer. They may therefore fail to understand the full potential of their legally protected tenure rights.

The valuation of land is difficult because legally land has no market value as it cannot be transacted; only the physical infrastructures standing on the land have economic value. Although the topic has started to be debated, namely in the FCT, it remains a very contentious and divisive matter, which is associated with unsettled discussion on land privatisation (*cf.* Box 2.2) and taxation.

With regards to taxation, the World Bank has been putting pressure on government for reform with the view of stimulating more productive land use, discouraging speculation and deriving a market-based value for land.²³ It has called specifically for the increase in tax rates and the elimination of special rates for livestock, wildlife conservation, and permanent crops, in order to make holding excessive areas of land for speculative purposes more costly (Van Den Brink 2008). The need to generate a resource base to sustain land governance services by the state is another argument for tax reform. Arguments against tax reform and increases in rates are similar to those opposed to privatisation of land and regulation of markets for DUATs. The capacity to pay taxes within rural communities is often limited and the formalisation of land rights and tax enforcement may lead people (particularly the poorer) to dispose of their land, increasing their vulnerability.²⁴

3.2.5 Communities and the interface with local state and customary authorities

A final challenge worth highlighting concerns the reconciling of a delimited community as a land management unit with existing local governance structures and jurisdiction. The Mozambican legislation (on land and territorial planning) uses a flexible notion of community that leaves ample scope for community self-determination (*cf.* Section 2.1.2).²⁵ Land delimitation is indeed a process whereby local communities define themselves and the areas of land over which they claim rights to occupy and use the land. This is considered

²² Personal communication with Luis Diniz, LUPA, 2013.

²³ Policy Note on 'Rural land taxation' (WB/FAO 2011).

²⁴ It is worth noting in this regard that only demarcated land is subject to taxation, whereas delimited land is not.

²⁵ The only limitation set by law is that the community is located within the confines of a locality, the lowest level of state administration.

well suited to the Mozambican context where patterns of land occupation and use are defined by a variety of location-specific social and cultural circumstances (Terra Firma 2013). Yet, there are questions regarding the extent to which in practice this flexible and bottom-up approach on community definition is reconciled with established local administration divisions. On this matter, it is worth questioning how the imminent initiative by the Ministry of State Administration (MAE) to demarcate localities will dialogue with the work carried out on community delimitation and demarcation, as well as the land occupancy and use rights of local community already protected by law. A related issue is that of how community delimitation gets represented in processes of territorial planning and administration, which continue having an inherently top-down orientation (Norfolk and de Wit 2010). In sum, how will community delimitation interface with decentralisation, where the latter has largely been managed by the GoM as a bureaucratic process of budgetary allocations (driven by political control motivations) rather than a process of local political and social empowerment? On the other hand, however, if community delimitation is taken as a social empowerment (and, ultimately, political empowerment) process (although progress has been limited), then how could it shape the course of the decentralisation process in the future – and specifically the interface between local communities and the state?

This takes us back to the point of community representation, which remains an ambiguous matter in the legal framework. As noted earlier (*cf.* Section 2.3.1), there are outstanding issues concerning the legal status of existing representative structures, such as the CGRNs (that are entitled by law to receive a proportion of taxes on forestry and mining concessions but has no legal standing), and their accountability *vis-à-vis* the broader community. There are also issues of how these community representatives and traditional authorities interact – our study captured several accounts of cases where traditional authorities had reportedly agreed to land concession for external investors without the knowledge of affected communities and without securing fair compensation for those communities. Whether the empowerment of communities and their representatives could lead to the future challenging of traditional authorities and customary governance systems is a question mark which requires careful consideration. There is a need for in-depth research on experiences with building community representation and how these are playing out in practice, in connection to both formal and customary governance structures.

3.3 Positive developments and opportunities

Perhaps the most significant improvement concerning the management of land and territory as a space of economic and social development has been the work on community delimitation. This not only concerns the actual process of delimitating borders of local communities and getting certificates but also the capacity building work associated with such processes. Despite the difficulties, this capacity building work with communities, with its participatory methods, contributes to the gradual empowerment of local communities (Tanner, de Wit and Norfolk 2009). The safeguarding of community delimitation from the same burdensome procedures that apply to titling and land demarcation is an achievement worth emphasising (*cf.* Box 2.4).

In relation to opportunities, the recent partnership between the GoM and CTC/ITC on *Terra Segura* may help take delimited communities to the next level (if delimited communities are the ones where formalisation is prioritised) by strengthening the stance of community members (with titles) in their negotiation with investors. The formalisation process may also work as an incentive for people in the community (individually or as a collective) to take those rights forward by drawing land use plans to gain access to available resources (being the district fund established as part of the decentralisation policy, or the earmarked funds

from tax revenues from mining and forestry concessions²⁶, or indeed any local donor-funded development initiative) and put them to use for local development.

SDC-supported Inovagro, a private company based in Nampula and connecting small farmers to input and output markets for specific value-chains (particularly legumes such as soybeans and beans), has been accumulating experience in establishing such partnerships, while working also on strengthening land rights of rural communities. Crucially, their work is focusing on 'hot spot' areas (such as Gurué and Mocuba) where there is very high demand for land and hence huge scope for conflict. There is a need for learning more about this experience and whether it brings new dimensions to the work previously done by other organisations (see Box 4.2 in the following section) in terms of guaranteeing a fair and sustainable deal for local farmers and communities.

Finally, the opening up of the debate on the legal framework has brought to the fore some key issues for land management, specifically on the value of land, taxation and the ceding of use rights. These are all highly contentious issues that will need to be handled carefully but the fact that they are now being discussed is undoubtedly a step forward that creates opportunities for policy influencing, such as the ongoing drafting of the decree on 'cessão de exploração' (cf. Section 2.4.1).

4 Conflict

Land-related conflict has occurred in Mozambique as a result of many of the problems identified above, including the asymmetry of information about rights, ambiguities in the legal framework on several matters, and the inobservance of the law and land administration procedures due to a combination of corruption, dirigisme, capacity constraints and negligence. In this section, we provide an overview of types and causes of conflict and consider existing mechanisms for conflict detection, resolution and prevention, while noting limitations as well as some achievements.

4.1 Types and causes of conflict

There are different types of conflict over land. In her study of land conflict in Mozambique, Mandamule (2016) uses the following typology:

- *Community-investor conflict.* This type of conflict occurs when an external investor (and DUAT applicant) gets hold of a DUAT without adequately consulting with the affected community or when the investor does not comply with an agreed compensation plan. It may also occur when communities come to realise they agreed to an unfair deal, due to misinformation about the investment or lack of understanding about its implications as well as the real value of land for their livelihoods.
- *Inter-community conflict.* This is typically a conflict concerning borders between communities. It may emerge in the process of community delimitation or as part of community consultations for the purpose of DUAT attribution to new applicants.
- *Inter-family conflict,* between members of the same community. This form of conflict may arise when the limits of areas held by a family under good faith or customary occupancy are not observed, often in cases where these areas are not demarcated, are not being used and are therefore perceived as available.
- *Intra-family conflict,* between members of the same family. This typically arises in relation to inheritance, where there are disputes between family members on how the

²⁶ According to the legislation on forestry and mining, 20 per cent and 2-7 per cent of taxes from forestry and mining concessions, respectively, revert to the affected communities.

land of the deceased should be distributed. The rights of widows/widowers (daughters/sons) vary across the country depending on local customary practices, with matrilineal Northern regions having customary norms that are more favourable to women than in the South of Mozambique. For example, in the district of Gurué (in Zambézia province), Mandamule describes cases of intra-family conflict resulting from the return by the widower to his maternal land²⁷ where he does not find space to build his new home or farm because his family land has been occupied by his sisters and their respective families and he is therefore led into occupying someone else's land.

The advocacy work by Mozambican watchdog organisations has largely focused on the first type of conflict, typically those prominent cases involving foreign capital and large expanses of land. Inadequate community consultation is the most commonly reported problem in such cases, with issues regarding the lack of transparency about the actual intentions by DUAT applicants (information shared is often misleading), selective involvement of community members and uneven power relations between the confronting parties (communities on one side and government authorities and investors on the other). There are several relatively well-documented cases of conflict in the mining, forestry and agriculture sectors – Annexe 3 provides an overview of some of the best-known cases.

Several of these conflicts have occurred in 'brown field' sites, where state farms had previously been located. These were typically settler farms established during the colonial period that were nationalised after Independence. Many of them collapsed and eventually stopped producing, due to a combination of mismanagement and the disruption caused by the armed conflict that followed Independence. Local populations, often workers previously employed by the state farm, gradually occupied and settled with their families in the abandoned farmland and became legally DUAT holders, at times with over 10 years of good faith occupancy.²⁸ Some in government argue, however, that: (i) the occupation of land known to be within the confines of a state farm should not be considered to have been done in good faith, and (ii) state farms fall within the category of land reserved by the state and are therefore not subject to the acquisition of a DUAT (Hanlon 2011). There are, hence, differences in understanding about the rights of local communities and occupants in the case of state farms, as well as differences of interpretation of what good faith occupation entails. This notwithstanding the fact that many of these areas were settled by people at the behest of the government during the period of widespread insecurity. That conflicts occur is therefore unsurprising. There are several examples of brown field conflicts within the Nacala corridor, in areas of high-value farmland – Box 4.1 provides details on Matharia and Mozaco, in Nampula province.

²⁷ In the matrilineal communities of Northern Mozambique, when a man marries he settles in his wife's community. If his wife dies or the couple separates, the man returns to his mother's community.

²⁸ The 10-year period concerning good faith occupancy was established in the law with two aims: (i) allowing the local population enough time to return to their original land where they had been away because of the armed conflict; and (ii) preventing the return of colonial settlers to reclaim previously occupied land.

Box 4.1 Brown field conflict: the revival of settler/state farms in the Nacala corridor

Matharia is a farm established by the settler family Santos during the colonial period in the district of Ribaué, Nampula. The farm was nationalised at Independence and the family left the farm and stayed away for about 20 years. The children of the original owner settled in Maputo during the war and became Mozambican nationals. One of them returned to Ribaué in 2011 with the aim of re-establishing his father's plantation and cattle ranch. According to a local representative of ORAM (interview, Ribaué, 11 May 2016) no community consultations were undertaken and the Santos family obtained a DUAT for 2,800ha, corresponding to the original farm. 'The Matharia DUAT fell from the sky', as someone noted (group interview, Nampula, 13 May 2016). Yet, during the family's prolonged absence, the local population had already settled in that area and became legally entitled to occupy the land (although this is disputed). The conflict is ongoing and the population is claiming the right to occupy 500ha within the farm area. A local farmer noted 'the DUAT I have is that tree where lies the father that brought me life' (interview, Ribaué, 11 May 2016).

The land claimed by *Mozaco* in Malema district has a similar story to that of *Matharia*. *Mozaco*'s main shareholder (João Ferreira dos Santos, JFS) was the owner of the farm during the colonial period and is still the registered owner in the national cadastre (interview with SDGC, Malema, 12 May 2016). The farm was nationalised and became the state farm known as *Unidade de Namele*. In 2013, *Mozaco* obtained DUAT for 2,389ha, claiming JFS's original land. The land passed from JFS to *Mozaco* with no community consultation. Yet, 100 families had in the meantime established their homes and farms in the area. About 1,500 people were evicted and *Mozaco* only paid compensation to some of about USD 70 (MZN 4,000) per person. It had promised to cover 50 per cent of the costs of building new houses but it failed to do so (interview with ORAM, Ribaué, 11 May 2016). The DUAT has in the meantime been reduced to 1,500ha to account for the population expansion. According to local administration authorities, there is an agreement to reduce *Mozaco*'s DUAT further down to 500ha (interview with SDGC, Malema, 12 May 2016). Yet, for local CSOs the conflict is still unresolved and there are concerns that the original expansion ambitions will be pursued in the future (interview with ORAM, Ribaué, 11 May 2016).

The Nacala corridor has also been the site for land conflicts concerning different agriculture development models and farming systems, particularly between large-scale plantation agriculture and small-scale and subsistence farming. Hoyo Hoyo, in the much sought after and conflict prone district of Gurué, Zambézia province, is an example of the plantation model confronting an emerging class of small-to-medium scale commercial farmers as well as peasant subsistence farmers who are legally entitled to the land and have yet to be justly compensated or integrated in local agricultural development initiatives (it is also another example of brown field land conflict) – Box 4.2.

The large-scale plantation model has been strongly resisted by CSOs and the programme ProSAVANA, an agricultural development initiative sponsored by the governments of Brazil and Japan in the corridor, has been a major target of this resistance. Although the programme has not itself brought any farmers to the region it has been criticised for devising an agricultural development plan for the region (known as the ProSAVANA Master Plan) that is regarded as flawed from a social justice and environmental perspective for reserving a major role for commodity focused and export-oriented large-scale plantations and contracting farming schemes.

Box 4.2 Conflict between different farming systems at Lioma

The farming area around Lioma locality in Gurué district has been a highly productive cereal growing area since colonial times. As with Matharia and Mozaco, it was turned into a state farm after Independence and abandoned during the 1980s due to the war. Since 2003, Lioma became a favourite location for experimenting with soybean. American NGOs CLUSA and Technoserve ran soybean promotion projects in the area for several years (between 2003 and 2010) and helped establish farmers' associations and to develop a local soybean value chain. When in 2009, the Council of Ministers approved a 10,000ha DUAT for a large soybean and sunflower plantation by Quifel-owned Hoyo Hoyo on the old state farm, hundreds of farmers had already settled in part of that land and had established themselves as relatively successful soybean farmers with support from the CLUSA project. Negotiations between Quifel and the government were done behind closed doors, while CLUSA continued supporting farmers in the area. Quifel failed to comply with its activity plan and ended up using a minor area and creating few jobs. At the end of 2010, the deadline to show progress approached and Quifel faced the possibility of losing the DUAT. It then started planting in areas already ploughed by farmers benefiting from the CLUSA project, resulting in a direct clash. Facing financial constraints and unable to plant its land, Quifel eventually invited CLUSA to invest in its land. Other large-scale investors (including Agromoz, African Century Agriculture and Rei do Agro) have targeted land in Gurué for soybean production and the experience managing their interaction with local communities has not been positive. Inclusive community consultations have been largely absent and there is therefore a high level of uncertainty about what will happen next and how poorer farmers in particular will fare in these ambiguous land deals.

Sources: Hanlon (2011), Hanlon and Smart (2013) and Norfolk and Hanlon (2012).

4.2 Mechanisms for conflict detection, resolution and prevention

The lack of transparency and access to information, underpinned by corruption and violations of the legal framework, is likely to continue feeding conflict. There are also contrasting perspectives on the extent of land-based conflicts and their significance, which constitutes an obstacle to conflict resolution. Government representatives interviewed for this study were unanimous in denying the existence of conflict or dismissing known cases of conflict as resulting from '*mal entendidos*' ('misinterpretations') that can be easily addressed by talking to the communities. This perspective contrasts sharply with the view held by CSOs who insist on the pervasiveness of conflict – 'there is no single investment project in Nampula province that did not generate conflict', noted a member of ORAM at a focus group meeting with Nampula-based CSOs (group interview, Nampula, 13 May 2016). The commonly heard '*fomos lá e resolvemos*' ('we went there and solved the problem') from government authorities is indicative of the uneven balance of power in interactions with local communities. They may be successful in concealing local communities' concerns in the short run but the resurgence of conflict in time may be inevitable.

Other significant challenges for managing conflict effectively concern the lack of means to monitor specific cases over time, both on the side of government (technicians within MITADER and SPGCs acknowledged their limitations in this regard) as well as watchdog organisations. Furthermore, the absence of an independent and capable judiciary and the inability by people in local communities to pay for the expensive services of legal advisors remain major challenges that are insufficiently talked about in a context where donor-funded paralegal services have filled the slack.

Despite these limitations, there has been some progress in *detecting and monitoring conflict*. Mozambican CSOs have played an important part by 'naming and shaming', publicly

documenting violations of the legal framework and the negative impact of land-based investments on local communities and their natural environment. Some CSOs specifically train members of the community – ‘community activists’ – to act as focal points and monitor land issues, detect new cases of conflict and share the information through their networks (they sometimes equip them with mobile phones to ease communication). The effectiveness of this mechanism is yet to be assessed. For the moment, it seems CSOs’ advocacy work continues focused on a relatively limited number of high-profile cases. The extent to which they have the means to capture new cases in a timely way is questionable, as our earlier story of a new investor in Ribaué illustrated (*cf.* Box 3.1).

CSOs have also played a critical role in *conflict resolution*, including in cases of inter or intra-community conflict, as emerged from the focus group discussion with Nampula-based CSOs (group interview, Nampula, 13 May 2016). They have also effectively pressured external investors to address communities’ concerns with some positive results:

- In the mining sector, Vale and Anadarko have responded to civil society protests and have introduced measures to correct initial oversight in their interactions with local communities, although it is questionable whether fair compensation has been provided. Yet, some achievements are noticeable, including Anadarko’s sponsoring of community delimitations. The unremitting watchdog role played by CTV is worth emphasising.
- In the forestry sector, Lúrio Green Resources and Portucel, holders of the largest concessions for forestry plantations in Mozambique²⁹, are sponsoring social development programmes in the communities where they operate, in addition to compensation paid to resettled communities. For example, Lúrio Green Resources has a community development programme focused on providing social infrastructures and supporting farming activities through provision of seeds (developed on its own farm³⁰) and technical assistance (provided by its own team of extension agents). There is also an intention to assist communities in the formalisation of land rights (interview with CEO of Lúrio Green Resources, Maputo, 18 May 2016).
- In agriculture, there are several cases where DUATs obtained without adequate compensation are now being reduced to better accommodate the land rights of the population living locally (examples include Matharia and Mozaco). One could legitimately ask, however, to what extent this re-sizing is the outcome of civil society pressure or the outcome of a deteriorating business environment (fall in international prices coupled with domestic political and economic crises)? What would have happened if conditions continued to be favourable for investors?

The GoM has acknowledged the brokering role played by CSOs and there are cases where these have been approached to help in the interaction with local communities.³¹

Finally, the capacity building work done by CSOs with local communities (in assisting delimitation and the establishment of community representatives) is expected to work as a mechanism of *conflict prevention*. Several cases of successful conflict prevention were reported to us, including:

- The community delimitation work sponsored by ITC in Matharia, which prevented the escalation of conflict with the Santos family (group interview, Nampula, 13 May 2016).

²⁹ Lúrio Green, for example, holds about 15 provisional DUATs covering an area of 126,000ha, spread across districts in the provinces of Nampula and Niassa.

³⁰ Seed is produced in an area of 100ha held by Lúrio Green in Mecuburi, Nampula.

³¹ An example of government-CSO dialogue is the case of the heavy mineral sands concession hold by the Irish mining company Kenmare, in the district of Moma, Nampula province. Local communities have forcefully opposed the project, which will affect an important sacred site near the locality of Larde – a place known as *Monte Filipe*. The government is concerned with the possible collapse of the mining project (and economic implications in terms of tax and job losses) if the company is unable to proceed with its operation and has asked CSOs to help interaction with local communities. Negotiations are ongoing.

- The case of a traditional leader in the Namipaca community in Ribaué (previously trained by CTV on community consultations) who refused a second consultation requested by an investor because the first one had only involved traditional leaders and the process was therefore regarded by the leader as flawed (interview with CTV, Maputo, 17 May 2016) – it is debatable, however, whether the refusal of consultation by itself can be regarded as an accomplishment.
- The coordinated work between CSOs, district and provincial government concerning a land concession for a graphite mine in the Balama district, Cabo Delgado province, which had initially envisaged resettling 500 families (experts roundtable, Maputo, 19 May 2016);
- The recent establishment of a mechanism for civil society engagement with the much-contested ProSAVANA programme that expects to help prevent conflict regarding future agricultural development initiatives in the Nacala corridor (Box 4.3).

Overall, stories about conflict and conflict resolution and prevention tend to be based on anecdotal and impressionistic accounts at particular points in time. There is a need for more in-depth and longitudinal analyses on individual cases in order to be able to establish the effectiveness of existing conflict management mechanisms and assess the extent of success and whether it is sustained over time.

Box 4.3 ProSAVANA's civil society coordination mechanism: a success story?

ProSAVANA – a programme for the development of agriculture in the Nacala corridor, launched in 2011 by the governments of Mozambique, Brazil and Japan – has for several years been the subject of a major protest campaign by Mozambican CSOs, in collaboration with Brazilian and Japanese CSOs. The campaign accuses the programme, particularly its Master Plan for the corridor, of leading the way for land grabbing and favouring a model of large-scale and export-oriented agriculture that is likely to be socially unjust, deprive people of their land and have a detrimental impact on local food security and the environment. In the light of protest, the ProSAVANA Master Plan was revised to incorporate a focus on small-scale farming and food security. Yet, the protest escalated, with the 'no to ProSAVANA' campaign launched in 2014 and CSOs continuing to criticise the top-down management of the programme and the persisting lack of transparency and civil society engagement. In response to these concerns, a mechanism for ProSAVANA coordination with civil society was agreed in early 2016. Within the ProSAVANA management team, the Japanese side seems to be playing the leading role in opening the dialogue with civil society with a view to cleaning the programme's negative reputation. Fractures within Mozambican civil society regarding ProSAVANA have emerged as the mechanism is supported by Nampula-based CSOs – congregated around the so-called Nampula Platform³² – but criticised by other national CSOs, who remain concerned with the programme's framing and intentions and continue to endorse the 'no' campaign. The Nampula Platform expects the mechanism to become an instrument for influencing the programme and adjusting it to the needs of local communities. With regards to land governance specifically, several measures are being proposed with the aim of preventing land conflict and promoting inclusive land use and economic development. These include community delimitations, support in the mediation between communities and external investors and a detailed mapping and characterisation of rural producers in the Nacala corridor. A further revision of the Master Plan is also envisaged (group interview, Nampula, 13 May 2016). It is early to conclude that the creation of this mechanism is by itself a success story. It is no doubt an opening on the side of ProSAVANA but success depends on whether the mechanism will make any positive difference on the ground. This is certainly a case to continue monitoring for having grounds to assess impact on government's policy and, specifically, land administration and management in the corridor.

³² Its full designation is Provincial Platform of the Nampula Civil Society Organisations (PPOSC-N).

5 Conclusion

It has become commonplace to claim that the Mozambican land legislation, with the 1997 Land Law as its hallmark, is amongst Africa's most innovative and progressive. Mozambique's legal framework may have many positive aspects – it protects local communities' tenure rights, recognises customary land occupancy and leaves scope for participatory land governance. Yet, its implementation has faced many challenges. Some of these concern the legal framework itself, where several issues remain ambiguous and insufficiently regulated – not least the notion of 'local community'. Others see weaknesses in land administration and governance more broadly, including the lack of qualified human resources, the absence of a financial base to sustain basic land administration activities, a complex organisational structure with overlapping remits and the absence of a 'checks and balances' system in a context of growing hegemony of the ruling party. Institutional fragility combined with corruption and the capture of the state and economic resources by the ruling elite pose significant obstacles to implementing the legal framework, particularly with regards to its most progressive elements. The ability to protect the legally acquired land rights of rural communities has been further challenged by the surge in demand for land that has accompanied Mozambique's economic development and, until recently, the large inflows of FDI attracted to the country by natural resource endowments, price incentives and the development of special economic zones and growth corridors. In a context of a fragile governance framework, this has resulted in unlawful land occupation and widespread conflict with the local population.

CSOs have played an important part in disseminating the legal framework, informing customary occupants and local communities about their tenure rights and supporting the exercise of those rights. This has frequently translated into protecting local communities from abusive land appropriation by investors (national and foreign) that often have had the backing of the Mozambican government, or at least influential members of the ruling elite. These experiences and the extensiveness of land-based conflict have generated negative views about investors that have compromised the implementation of the 'open border' vision. Although the law protects customary occupants and local communities, it also sets out a system that allows tenure rights to be granted to investors for a period of time, thereby aiming to stimulate the productive use of land while giving a role to local communities in approving that process and negotiating compensation. Putting this idea into practice has been far from easy.

It has been hard to build effective partnerships between communities and investors, where communities (or community members) participate actively in investments and benefits are distributed in a fair manner. Examples of community-investor partnerships remain confined mainly to the forestry sector where investors have a very clear incentive to involve local communities and avoid conflict (as trees are a highly combustible resource). Power asymmetry in community-investor relations remains a major challenge. Furthermore, the undervaluation of land makes it difficult to get a fair deal for rights-holding communities, even where legal procedures are duly followed. The underdevelopment of a land taxation policy could be regarded as part of the problem. Yet, the issue of valuing land and taxing it on that basis (and thereby preventing speculative use and unjust compensation) remains taboo for many, who for different reasons (not all commendable) continue defending the legal framework in its entirety despite some obvious faults. There are gradual openings in the land debate though and some of the hottest issues are now being put on the table. The discussion around the 'ceding of rights' for local communities provides an example of compromises being forged between those pushing for the formalisation of markets for DUATs and those resisting it and insisting on maintaining DUAT ownership in the hands of local communities.

Watchdogs, research organisations and experts on land governance have voiced increasingly competent and persuasive calls for sound land policy. The work done on conflict resolution and prevention is commendable although there is a clear need for better instruments of conflict detection, particularly as the nature of conflict may be changing. Large mining and forestry companies have invested in social development programmes and are increasingly aware of the need to compensate communities affected by their investments in order to avoid disruption to their activities, partly because of the work of watchdog organisations such as CTV. Progress in conflict management and prevention is therefore noticeable, although a lot remains to be done to strengthen social justice and environmental due diligence and to promote more direct community involvement in projects. Progress in conflict management is less evident in agriculture. Many of the large plantation projects have failed to get off the ground and requests for large plots of land have declined. Yet, demand for farming land continues and is possibly becoming less visible with requested DUATs getting smaller. Also, population resettlements are causing new types of conflict between and within communities. People dislocated from their land are moving into new areas where they confront the tenure rights of other communities. The vulnerability of resettled populations regarding land rights remains unaddressed. CSOs have largely focused on high-profile stories as they have insufficient means to identify new and less discernible cases. There is also limited capacity to monitor individual cases and develop an in-depth understanding of the dynamics of conflict – such as the various interests at play (including inside communities) and how these change over time.

Community delimitation emerged from our analysis as a distinctive instrument of tenure security. It is also regarded as an instrument of conflict prevention and bottom-up territorial planning. Yet, delimitation is no silver bullet and there are several weaknesses to address and challenges to debate with regards to this potentially progressive instrument of Mozambique's legal framework. How community delimitation relates to processes of administrative decentralisation and government-led territorial planning is not yet clear. There has also been little attention to power dynamics within communities and *vis-à-vis* local traditional and formal authorities. These are central to understanding the opportunities and risks when working with local communities, particularly as, no matter how well intended, the agents that facilitate the community delimitation and empowering work are themselves from outside the communities. Community delimitation should be taken less as a formulaic land administration procedure and more as a bottom-up governance instrument. If this is recognised then the need for appropriate tools for understanding local power dynamics (as well as more reflexive attitudes by those working with communities, acknowledging their own role as external agents) will become more evident.

More broadly, however, there are questions as to what extent the land governance framework – with its progressive features of customary tenure security, community delimitation and empowerment – can be taken forward in a political setting that is not progressive at all, quite the contrary. Government authorities are not well equipped or motivated to strengthen the implementation of the legal framework, as illustrated by the lack of progress with regards to transparency.

Furthermore, and this concerns also attitudes by CSOs and donor agencies, land tenure security needs to be addressed in conjunction with broader rural development. Important as they are, campaigns for protecting the rights of local communities and customary occupants should not block much needed investments in highly deprived rural areas (as long, of course, these play by the rules and offer fair deals). Tenure security is necessary but not sufficient to improve the livelihoods of local communities and there is a fine balance between protecting rights and blocking opportunities for development. Communities need access to opportunities to make the best of their secured land rights and this may comprise access to services, infrastructures and markets. Without such improvements in rural areas, the formalisation of tenure could itself be counterproductive and indeed become a threat to

those it intends to protect – if communities lose their land (or part of it) for being unable to explore it fully and therefore unable to comply with the obligations that formalisation may pose on them (such as demarcation or taxation).

Moving forward, there are at least two issues that require stronger attention by the SDC programme in Mozambique. One concerns transparency. There needs to be unremitting pressure on government to improve access to and accuracy of information on land concessions, titling, demarcation and delimitation and their territorial location. This information ought to be regarded as a public good, and a basic one to ensure inclusive land governance.

The other issue is one where SDC, with its track record on land governance and experience with broader governance and socio-economic development issues, is particularly well positioned to play a leading role. It regards combining ongoing efforts to strengthen land governance (on both supply and demand sides) with efforts to promote rural development. This requires thinking beyond tenure security and conflict management but combining these with broader social and economic development initiatives. For example, there is a need to develop mechanisms for making community delimitation a more strategic local development endeavour and connect it to investment opportunities and government-sponsored programmes (such as initiatives like ProSAVANA in the Nacala corridor); this is about restoring the 'open border' vision and building it into community delimitation work. In order to push such an agenda forward, SDC needs to strengthen internal links between its land, local governance and economic development programmes.

To conclude, we highlight areas where further analysis is need and where SDC, with its established partnerships with research organisations, is well positioned to fill the gap and expand the research agenda on land in Mozambique – and with implications for current understandings about land governance beyond Mozambique. One area for research concerns processes of community empowerment, such as those embedded in community delimitation work. There needs to be an assessment of the impact of this empowering work from a governance perspective that brings to bear Mozambique's decentralisation experience and the role of customary norms and authorities in local communities. Another area for research concerns the dynamics of conflict and how these evolve over time. Existing knowledge about conflict is too often based on anecdotal and impressionistic accounts at particular points in time. There is a need for more in-depth and longitudinal analyses on individual cases that allow for a more rigorous assessment of impacts and successes in conflict management. A third topic for research concerns the value of land beyond a narrow definition of productive use and market value and taking into account the wider significance of land as a place for living, social reproduction and environmental management.

Annexes

Annexe 1 Timeline of key events, government policies and actions by CSOs

| Year | Key events | Actions by CSOs | Key GoM policies and legislation | Key institutions (and donor support) |
|------|--|---|--|--|
| 1992 | Peace Agreement: mass returns start from areas of refuge, neighbouring countries | | | DINAGECA responsible for land survey and cadastre |
| 1993 | Increasing land pressure | ORAM established | | Ad hoc Land Commission |
| 1994 | Increasing land conflicts | Intense lobbying on land issues | | Swedish support to DINAGECA |
| 1995 | | | National Land Policy (Resolution 10/95 of 17th October, 1995) | Inter-Ministerial Land Commission established, based in MINAG |
| 1996 | | | National Environment Policy (Resolution 5/95 of 6th December 1995) | |
| 1997 | | | Land Law (Law 19/97 of 7th October, 1997) Forestry and Wildlife Policy and Development Strategy (Resolution 8/97 of 1st April, 1997) Environment Law (Law 20/97 of 7th October 1997) | |
| 1998 | Surge in land (DUAT) applications by urban-based elites | National 'Land Campaign' and land law dissemination | Rural Land Law Regulations (Decree 66/98 of 8th December, 1998) | |
| 1999 | | | Land Title Use Fees (Decree 77/99 of 15th October, 1999) Forestry and Wildlife Law (Law 10/99 of 12th July, 1999) | Technical assistance to land policy implementation in several provinces, including by DFID, Dutch Embassy, SDC |
| | Piloting of community land delimitation processes completed | Community land registration started by NGOs/CSOs | | |
| 2000 | | | Technical Annexe for the Demarcation of land use and benefit areas (Diploma no. 29-A/2000, 17th March, 2000) | DFID support to piloting of new land legislation through Zambézia Agricultural Development Programme |
| 2001 | | | | CFJJ: FAO support to training judiciary and paralegals starts |

| Year | Key events | Actions by CSOs | Key GoM policies and legislation | Key institutions (and donor support) |
|------|--|--|---|---|
| 2003 | | CTV established Campaign to formally cancel 'legacy' DUATs not renewed under new law. | Amendment to Land Law Regulations (Decree 1/2003 of 18 th February, 2003) specifically allowing local communities to register delimited land in the Registo Predial | Inter-Ministerial Land Commission closed down Swedish-developed Land Application Handling System (LAHS) falls into disuse |
| 2004 | Land Legislation translated into Xichangana, Cindau, Cisena and Emakhuwa | | Environment Impact Assessment Regulations (Decree 45/2004 of 29 th September 2004) | DINAGECA embark on development of multi-functional cadastral information system (LIMS) with Italian support |
| 2005 | | | Payments of forest revenue to local community groups (Ministerial Diploma No. 93/2005 of 4 th May 2005) Law on legal status of agro-livestock associations (Law 8/2005 of 23 rd December 2005) | |
| 2006 | | | Urban Land Regulations | DINAGECA development of LIMS ceases, allegedly in the face of political obstruction to increased transparency in cadastral information MICOA responsibility for land use planning |
| 2007 | Surge in large-scale external land (DUAT) applications | | Territorial Planning Policy (Resolution 18/2007) Territorial Planning Law (Law 19/2007 of 18 th July, 2007) CoM Decree to amend Article 35 of Land Law regulations (decree 50/2007 of 16 th October, 2007) DNTF National Circular (009/DNTF/2007 of 16 th October) directing that community delimitations must be submitted for government approval and also present land use development plans | iTC starts in three provinces Forest and Wildlife Services merged with Land to form DNTF in place of DINAGECA |
| 2008 | | Delimitation exercises brought to a standstill by CoM amendment and National Circular | Decree 70/2008 introducing further regulations on large scale land acquisitions (>10,000ha) Territorial Planning Regulations (Decree 23/2008 of 1 st July, 2008) | MCC Compact, with USD \$30m land administration capacity building component starts. Includes commitments from GoM to introduce regulations to ease transferability of rural DUATs and increase transparency of cadastre |

| Year | Key events | Actions by CSOs | Key GoM policies and legislation | Key institutions (and donor support) |
|------|--|---|--|--|
| 2009 | First 'land zoning exercise' completed at 1:1,000,000 | | | MCC funds extension of the iTC to three additional provinces (Niassa, Nampula and Zambézia) |
| 2010 | National Community Land Conference held in Nampula Technical Meeting of SPGCs in Pemba | Forum Mulher 'One Woman, One DUAT' campaign Extensive lobbying regarding Article 35 amendment | DNTF National Circular (1/2010 of 1st October) revoking National Circular (009/DNTF/2007) and relieving community delimitation processes from obligation of development plans/government approval Consultative Forum on Land (Decree 42/2010, of 20th October, 2010) established as statutory body, with DNTF as Secretariat Consultation Processes (Decree 43/2010), states that the result of the consultation will be 'signed by the members of the Consultative Councils of the Town and Village' Revision of Land Taxes (Ministerial Diploma 144/2010) | National Consultative Land Forum (Fórum de Consulta de Terras) meets for first time. MCC-supported development of new land information management system starts (SIGIT) |
| 2011 | GoM announces that 'Pro-Savana' agricultural development programme will offer 6m ha of land to Brazilian farmers | Delimitation exercises start again | Consultation Processes (Ministerial Diploma 158/2011), adopts a two-stage system of consultations, spread over a maximum period of 30 days | MCC withholds financing on land component for failure of GoM to introduce promised reforms |
| 2012 | Second 'land zoning exercise' commenced at 1:250,000 | Widespread media coverage of Tete protests against resettlement (Jan) Sustained national and provincial resistance to Pro-Savana model and plans | Resettlement Regulations (Decree 31/2012 of 8 th August, 2012) Second land zoning exercise (1:250,000) underway | Land Tenure Regularisation supported by MCC piloted for first time in four northern provinces, leading to 140,000 DUATs issued to 'good faith' occupants; World Bank Agriculture and Fisheries Development Policy Operations programme agreed, with land-related targets to trigger disbursements to general budget |

| Year | Key events | Actions by CSOs | Key GoM policies and legislation | Key institutions (and donor support) |
|-------------|--|--|--|--|
| 2013 | Police harassment of environmental activist Alda Salomao, for assisting Quitupo community in negotiations in Palma, Cabo Delgado | | | MCC Compact closes Dutch/Swedish support agreed to land administration through USD \$14m GESTERRA project, including support for further development of SIGIT FAO Review of functioning of the National Consultative Land Forum makes recommendations for increased inclusivity |
| 2014 | National elections | | Technical Directive for the elaboration and implementation of Resettlement Plans (Diploma Ministerial 156/2014) | ITC transformed into a Cooperative after failing to have Foundation approved by Council of Ministers New MITADER established, merging responsibilities for land administration, territorial planning and rural development. New DNAT established, instead of proposed autonomous National Land Authority |
| 2015 | MITADER announces new Terra Segura programme to formalise 5m acquired land rights in 5 years and delimit 4,000 community areas | CTV commissions legal review of DUAT allocation to gas developers in Palma | Competencies of new MITADER (Presidential Decree 13/2015) | Dutch Kadastre begin work with DNTF to introduce 'Fit for Purpose' cadastral approach |
| 2016 | Dialogue promoted by JICA to review Pro-Savana programme | | Methodology for Terra Segura developed by DNAT Draft Decree for the sub-leasing of DUAT rights under discussion | World Bank 'Landscapes Project' with significant land component under development DFID Mozambique Land Action Programme (MOLA), focusing on Beira Corridor, under development |

Annexe 2 Overview of donor-funded land governance initiatives in Mozambique

| Name | Objective | Timeframe | Status | Budget | Scope | Funders | Implementing agencies | Sources |
|---|---|-------------------|--------------|------------------|--|---|---|--------------------------|
| Community Land Cooperative (CTC/ITC) | Secure communities' land rights by supporting land delimitation and demarcation and combine land rights delimitation and land use planning to identify potential sites for investment | 2006–... | Ongoing | US\$ 15 million | Manica, Gaza, Cabo Delgado, Tete, Sofala, Nampula, Niassa and Zambézia | DFID, Netherlands's Embassy, SIDA, Irish Aid, SDC, Embassy of Denmark and MCA | Currently CTC/ITC (previously KPMG and NRI) | (Edgroup 2014; SDC 2014) |
| Capacity Building for Land Management and Administration in Mozambique (GESTERRA) | Capacity support to DNAT | 2013 – | Ongoing | US\$ 12 million | National | Netherlands | Verde Azul EXI Lda | |
| SDC (research component) | Promote academic research and public debate for advocacy on community rights to land and natural resource benefit | | Ongoing | | Org specific | SDC | OMR | (SDC 2014) |
| SDC Legal advocacy... | Paralegal services – mediating between local communities and local administration | | Ongoing | | National? | SDC | CTV | (SDC 2014) |
| Agriculture and Natural Resources Landscape Management Project | | | Design stage | | | World Bank | | |
| MOLA/LLC | Support districts and municipalities in the Beira corridor through a Local Level Challenge Fund (LLC) Under discussion extension to national level support to | In design in 2016 | Design stage | US\$ 7.5 million | Sofala, Manica and Tete (where DFID supports major ag | DFID | Competitive bid to be re-launched* | DFID |

| Name | Objective | Timeframe | Status | Budget | Scope | Funders | Implementing agencies | Sources |
|---------------------------------|--|--------------|--------|--------|---|-----------------------|---|------------------------------------|
| | DINAPOT | | | | investment) and possibly national level | | | |
| Pro-Parcerias | Promotion of innovative models of community-investor partnerships – trying to identify approaches and legal instruments that ensure sustainable partnerships in which communities contribute unused land as legally constituted group that holds the use rights to this land | | Closed | | | Netherlands's Embassy | FAO | (Knox and Tanner 2011; Locke 2014) |
| FAO/Netherlands GCP/MOZ/069/NET | Twin-track training programme: a) paralegal courses for community level workers about customarily acquired rights, how to use these rights to secure socio-economic development objectives, and how to defend them using extrajudicial and judicial mechanisms; and b) 'District Officer Seminars' for District Administrators, Judges and Prosecutors, Police Chiefs, and Directors for Economic Affairs, to ensure they understand the constitutional basis of land and resource rights (including for women), and know how to use the natural resources laws to promote equitable and sustainable development. 'Action research' on | 2005 to 2008 | Closed | | National | Dutch Embassy/MCC | Centre for Legal and Judicial Training of the Ministry of Justice | |

| Name | Objective | Timeframe | Status | Budget | Scope | Funders | Implementing agencies | Sources |
|---|--|-------------------|--------|------------------------|--|----------------------|---|------------|
| | governance and justice issues relating to natural resources. | | | | | | | |
| Mozambican Centre for Juridical and Judicial Training (CFJJ) | Integration of gender training into CFJJ's programme of judicial and paralegal training. Up to early 2012 had covered 7 paralegal courses and 3 district officer seminars. | 2010-13 | Closed | | National | Netherlands' Embassy | FAO/CFJJ FAO Project MOZ 3068 (07/037) | |
| MCC Land Tenure Services | The project aimed to address the issue of land insecurity and access, by improving the policy and regulatory framework and helping specific beneficiaries better understand the processes and requirements for registered land rights. It comprised three areas: supporting an improved policy environment, including addressing implementation problems for the existing land law, and engaging in regulatory review to improve upon it; building the institutional capacity to implement policies and provide quality public land-related services; and, facilitating access to land use by helping people and business. | 2007–13 | Closed | US\$ 39 million | Zambézia, Niassa, Nampula and Cabo Delgado | MCC | DNTF HTSPE (DAI) KPMG CENACARTA INFATEC 8 municipalities in Zambezia, Niassa, Nampula and Cabo Delgado | (MCC 2013) |
| FAO/Netherlands GCP/MOZ/096/NET 'Promoting the Use of Land and Natural Resources Laws for Equitable | Paralegal and District Officer seminar includes follow-up technical assistance for farmers groups and associations, NGO and public sector paralegals at community level and the | 2009 36 Months | Closed | USD 2.86 million | | Netherlands' Embassy | Centre for Legal and Judicial Training of the Ministry of Justice | |

| Name | Objective | Timeframe | Status | Budget | Scope | Funders | Implementing agencies | Sources |
|--------------|---|-----------|--------|--------|-------|---------|--|---------|
| Development' | <p>Territorial Planning Law and Regulations. CFJJ train DNPDR staff in the use of natural resources legislation for promoting the equity and growth objectives of the RDS. Support to a campaign to promote the best use of underused land resources, focusing on investment and community-investor partnerships and participatory stakeholder approaches to territorial and district development planning.</p> | | | | | | National Directorate for Promoting Rural Development of the Ministry of Planning and Development | |

Annexe 3 Community-investor conflict: overview of some high-profile cases

| Location | Investor | Activity | Area of DUAT obtained | Communities' perspectives | Investors' perspectives | Status of conflict |
|-----------------------|--|------------------------|-----------------------|---|--|--|
| Moatize Tete (Cateme) | Vale (Brazilian mining and logistics company) | Coal extraction | 23,790 ha | <ul style="list-style-type: none"> 1,365 families resettled from mining site into two areas, including 716 to Cateme (June 2014) Inadequate monetary compensation, inadequate housing conditions and loss of productivity in new farmed land (June 2014) Vale divided the families up between rural and semi-urban, using different criteria for the resettlements. Families that were considered 'rural' were relocated 45 km from their community of origin and 75 km from the city of Tete (International Movement of People Affected by Vale 2012) | <ul style="list-style-type: none"> Communities compensated (some more than once), some errors recognised by Vale, many opportunists too | Less talk about it; presumably under control, although population still unhappy with their housing and farming conditions in resettled areas |
| Palma, Cabo Delgado | Anadarko (American oil and natural gas exploration and production company) | Natural gas extraction | | <ul style="list-style-type: none"> Nearly 5,000 affected families Uncertainty about area request by investor and families to be resettled Contestation by communities due to forged minutes from community consultation and lack of information on the compensation package Embargo by MITADER on DUAT until consultations are properly done | <ul style="list-style-type: none"> Investor announced compensation package to increase from USD 90 to 180 million, making it the most expensive to date in Mozambique, if implemented | Presumably under control due to advocacy work by CTV; community delimitation to be conducted in impacted areas |
| Mecuburi, Nampula | Lúrio Green Resources | Forestry | | <ul style="list-style-type: none"> Inadequate consultation and unfair compensation | <ul style="list-style-type: none"> Lúrio Green claims communities have been compensated and there are a | Provincial authorities think conflict has been solved, CSOs argue it persists |

| Location | Investor | Activity | Area of DUAT obtained | Communities' perspectives | Investors' perspectives | Status of conflict |
|-------------------------|---|-------------------|--|--|--|--|
| | | | | | series of social programmes <ul style="list-style-type: none"> Opportunism by local people | |
| Gurué, Zambézia (Ruace) | Hoyo Hoyo (established by Portuguese conglomerate Quifel Resources) | Farming (soybean) | 10,000ha (initially aiming to expand to 23,000 ha) | <ul style="list-style-type: none"> Occupation by Hoyo Hoyo without proper consultation (old state farm but occupying by local population shortly after Independence) – only 450 were consulted in brief meetings conducted in two localities in one day, of 15,000 people potentially affected (Norfolk and Hanlon 2012) Unfulfilled promises by company (social and physical infrastructures and soybean processing plant) and insufficient monetary compensation for lost land and crops (Mandamule 2016) | <ul style="list-style-type: none"> Communities compensated with ambulance, rehabilitation of bridges and water wells and supply of seed | DUAT area reduced to 3,500ha (2,800ha for plantation) |
| Gurué, Zambézia (Lioma) | Agromoz (joint venture between Portuguese, Brazilian and Mozambican investors: Amorim, Pinesso and Intellect) | Farming (soybean) | 13,000ha (distributed between three areas: 9,000, 3,000 and 1,000) | <ul style="list-style-type: none"> 1,000 people from Whakua community (1,000 DUAT) resettled without previous community consultation and with compensation negotiated in unclear manner; difficulties for people to access equivalent areas of land in resettlement sites creating food security problems (Mandamule 2016) Aerial spraying of pesticides by Agromoz destroyed crops in neighbouring land farmed by community members (Mandamule 2016) and posing public health concerns (UNAC and GRAIN 2015) Failure by Agromoz to fulfil promise of building health centre and school (UNAC and GRAIN 2015) | | Ongoing – Agromoz accused of recently blocking local rural roads in area near the farm |

| Location | Investor | Activity | Area of DUAT obtained | Communities' perspectives | Investors' perspectives | Status of conflict |
|------------------------------------|---|--|--|--|---|--|
| Malema, Nampula (Natuto community) | Mozaco (Mozambican company established by company with presence in region since colonial times JFS) | Farming (soybean, cotton, maize and sunflower) | 2,389ha (expected to expand to 20,000) | <ul style="list-style-type: none"> Land occupied in good faith by communities for more than 10 years; DUAT obtained by Mozaco without consultation and inadequate compensation and resettlement (Mandamule 2016) 1,500 people evicted, church destroyed, 10 families lost their homes and paid inadequate compensation; another 4,500 families risk losing their lands and water if Mozaco allowed to expand to 20,000ha (UNAC and GRAIN 2015) | <ul style="list-style-type: none"> Farm established as settled farm during colonial times in the name of JFS – JFS main shareholder of Mozaco so no need for consultation Communities have invaded land that was not available for good faith occupancy | Ongoing negotiation – SDGC noted there is an agreement to reduce Mozaco's DUAT to 500 ha |

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